REGULATION
ESTABLISHING STANDARDS
FOR
EMERGENCY INVOLUNTARY PROCEDURES

Agency of Human Services
Department of Mental Health

Effective November, 2013

(Annotated Copy)

These materials will be made available in alternative formats upon request.

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Section 1. General Provisions

1.1 Introduction

(a) The Vermont Department of Mental Health, through its agreements with the designated hospitals, is committed to establishing and maintaining treatment environments on psychiatric units in designated and state-operated hospitals that are safe, clinically effective, and non-violent. Hospital staff providing treatment for involuntary patients must be trained in non-physical, non-coercive skills and attitudes that emphasize the prevention of emergencies.

(b) The designated hospitals shall continually explore ways to prevent, reduce, and strive to eliminate restraint, seclusion, and emergency involuntary medications through education, training, and effective performance improvement initiatives.

(c) The Department of Mental Health, through its agreements with the designated hospitals, shall ensure that emergency involuntary procedures on psychiatric units are used only in emergency situations in accordance with generally accepted professional standards of care and the standards established by this rule. The Department of Mental Health also shall ensure that emergency involuntary procedures are used as safety measures of last resort. The standards for the use of emergency involuntary procedures are being implemented with the intention of preventing or minimizing violence in a manner consistent with the principles of recovery and cognizant of the impact of trauma in the lives of many hospitalized individuals. The standards are designed to protect and promote each patient's rights while at the same time protecting patients and others from harm.

(d) The Department of Mental Health has established these standards to meet or exceed and be consistent with standards set by the Centers for Medicare and Medicaid Services and the Joint Commission, as well as all the rights and protections previously available to patients at the former Vermont State Hospital, for the use and reporting of the emergency involuntary procedures of seclusion, restraint or emergency involuntary medication on individuals in the care and custody of the Commissioner of the Department of Mental Health. In addition, the standards require the personnel performing emergency involuntary procedures to receive training and demonstrate competency in the use of these procedures.

1.2 Statutory Authority

These rules are adopted pursuant to the 2012 Acts and Resolves No. 79, Sec. 33a.

1.3 Exception and Severability

If any provision of these regulations, or the application of any provision of these regulations, is determined to be invalid, the determination of invalidity will not affect any other provision of these regulations or the application of any other provision of these regulations.

Section 2. Definitions

2.1 General Definitions

For the purposes of these regulations, words and phrases shall be given their normal meanings unless otherwise specifically defined.

2.2 **Specific Definitions**

a. **Advanced Practice Registered Nurse** means a licensed registered nurse authorized to practice in Vermont who, because of specialized education and experience, is authorized to perform acts of medical diagnosis and to prescribe medical, therapeutic or corrective measures under administrative rules adopted by the Vermont Board of Nursing.

b. **Depot Medication** means a chemical form of certain anti-psychotic medication that is injected intra-muscularly and allows the active medication to be released over an extended time frame.

c. **Designated Hospital** means a hospital or other facility designated by the Commissioner of the Department Mental Health as adequate to provide appropriate care for patients with mental illness.

d. **Emergency** means an imminent risk of serious bodily harm to the patient or others.

e. **Emergency Involuntary Medication** (EIM) means one or more medications administered against a patient's wishes without a court order.

f. **Emergency Involuntary Procedures** (EIP) means restraint, seclusion or emergency involuntary medication.

g. **Emergency Involuntary Procedures Advisory Panel** means a panel appointed by the Commissioner of the Department of Mental Health to review emergency involuntary procedures involving individuals in the custody of the Commissioner of the Department of Mental Health in Vermont.

h. **Licensed Independent Practitioner** means a physician, an advance practice registered nurse licensed by the Vermont Board of Nursing as a nurse practitioner in psychiatric/mental health nursing or a Physician Assistant licensed by the Vermont Board of Medical Practice.

i. **Non-Physical Intervention Skills** mean strategies and techniques of communication or interaction that do not involve physical contact, such as active listening, conversation and recognition of an individual's personal, physical space, and that include a willingness to make adjustments for the individual's needs.

j. **Physician Assistant** means an individual qualified by education and training and licensed by the Vermont Board of medical practice to whom a physician can delegate medical care. A physician assistant may prescribe, dispense, and administer drugs and medical devices to the extent delegated by a supervising physician.

k. **PRN Order** means a standing order, an abbreviation of the Latin term *pro re nata*, meaning "as needed" or "as circumstances require."

l. **Restraint** means any manual method, physical hold or mechanical device, material or equipment that immobilizes or reduces the ability of a patient to move his or her arms, legs, body or head freely, or a drug or medication when it is used as a restriction to manage the patient's behavior or restrict the patient's freedom of movement and is not a standard treatment for the patient's condition.

m. **Seclusion** means the involuntary confinement of a patient alone in a room or area from which the patient is physically or otherwise prevented from leaving.

n. Specially Trained Registered Nurse means a registered nurse (RN) who has been trained to conduct an assessment of a patient for whom one or more emergency involuntary procedures have been ordered in accordance with the requirements specified in Section VI.

o. **Trained Physician's Assistant (TPA)** means a physician assistant (PA) who has been trained to conduct an assessment of a patient for whom one or more emergency involuntary procedures have been ordered in accordance with the requirements specified in Section VI.

~~o. Trained Registered Nurse (TRN) means a registered nurse (RN) who has been trained to conduct an assessment of a patient for whom one or more emergency involuntary procedures have been ordered in accordance with the requirements specified in Section VI.~~

Section 3. Emergency Involuntary Procedures

3.1 General Policy

a. All patients have the right to be free from physical or mental abuse, including corporal punishment. All patients have the right to be free from restraint, seclusion, or involuntary medication imposed as a means of coercion, discipline, convenience or retaliation by staff or used as part of a behavioral intervention, and the right to have their care be trauma-informed.

b. Upon admission or at the earliest reasonable time, with the patient's permission, staff shall work with the patient and his or her family, caregivers, and health care agents (if any) to identify strategies that might minimize or avoid the use of emergency involuntary procedures.

1. Staff shall obtain written permission from the patient to contact the patient's family. The permission sheet shall state that a patient may refuse to give staff permission to speak with family members.

2. Staff shall also discuss the patient's preferences regarding the use of such procedures should they become necessary. Although the hospital is not obligated to follow the patient's preferences, patient preference shall be considered when determining the least intrusive and least restrictive emergency involuntary procedure to use to address the imminent risk of harm. The information about the patient's preferences shall be made accessible to direct care staff to refer to when a patient is exhibiting signs of escalation.

3. Staff shall inquire about the existence of an advance directive with the patient or his or her guardian and also shall check the Advance Directive Registry. If an advance directive exists, a copy shall be placed in the patient's medical record and staff shall be made aware of it and shall refer to it with regard to emergency involuntary procedures, if applicable.

c. Emergency involuntary procedures may only be used to prevent the imminent risk of serious bodily harm to the patient, a staff member or others and must be discontinued at the earliest possible time based on an individualized patient assessment and re-evaluation. Whenever feasible, a patient shall be offered an opportunity to cooperate before and during an emergency involuntary procedure.

d. The decision to use emergency involuntary procedures is not driven by diagnosis, but by a comprehensive individual patient assessment.

e. Emergency involuntary procedures may be used only when other interventions have been attempted and been unsuccessful or when they have been considered and ~~found~~ determined to be ineffective, or when a patient is attempting to cause serious bodily harm to him or herself or to others and immediate action is necessary ~~the imminent risk of serious bodily harm is of such magnitude as to warrant immediate action to protect the safety of the patient or others~~.

f. The use of seclusion or restraint may be initiated by a trained registered nurse or a trained licensed independent practitioner who has personally observed the emergency. An individual who is not licensed to prescribe medication may not initiate ~~a restraint by drug or medication~~ emergency involuntary medication. Trained staff members may initiate a manual restraint if a patient is attempting to cause or actually causes serious bodily harm to self or others and immediate action is necessary.

g. The use of emergency involuntary procedures shall be documented. The documentation shall include a description of specific behaviors justifying the use of the procedures.

h. Patients shall be specifically informed that they have a right to have an attorney notified when emergency involuntary procedures are used.

i. Every effort shall be made not to use uniformed security guards when implementing emergency involuntary procedures. When security guards are used, documentation shall substantiate the need for such response after initial response by staff is assessed as not being sufficient to prevent the imminent risk of serious bodily harm to patients and staff.

j. There shall be no protocol, written or unwritten, that requires a patient to ingest oral PRN medications as a condition to release from seclusion or restraint.

k. Hospitals shall not use law enforcement officers to implement emergency involuntary procedures. Firearms, electronic control devices, pepper spray, mace, batons and other similar law enforcement implements shall not be used to implement emergency involuntary procedures. The only permissible use of such devices is for the purpose of law enforcement.

3.2 Use of Emergency Involuntary Procedures

The use of emergency involuntary procedures must be:

a. In accordance with a written modification to the patient's plan of care; and

b. Implemented in accordance with safe and appropriate restraint and seclusion techniques as determined by hospital policy in accordance with this rule.

3.3 Orders for Emergency Involuntary Procedures

a. The use of emergency involuntary procedures must be in accordance with the order of a licensed independent practitioner as defined in this rule who is

responsible for the care of the patient and authorized to order seclusion, restraint, or emergency involuntary medication by hospital policy.

b. If, on the basis of personal observation, any ~~registered nurse~~ trained staff member believes an emergency exists, a licensed independent practitioner or specially trained registered nurse shall be consulted immediately. The individual consulted shall personally observe the patient prior to writing, or, in the case of the specially trained registered nurse, obtaining, an order for an emergency involuntary procedure.

c. A protocol cannot serve as a substitute for obtaining a physician's or other ~~LIP's~~ licensed independent practitioner's order for each episode of emergency involuntary procedure use.

d. Orders for the use of emergency involuntary procedures must never be written as a standing order or on an as-needed (PRN) basis.

3.4 Timeframes for Emergency Involuntary Procedures

a. The order for restraint or seclusion must be obtained either during the emergency application of the restraint or seclusion or immediately after the restraint or seclusion has been applied.

b. The attending physician who is responsible for the management and care of the patient must be notified as soon as possible if the attending physician did not order the emergency involuntary procedure. The notification may occur via telephone.

c. When an order for emergency involuntary procedure has been obtained pursuant to subsection (a) above, the patient must be seen face-to-face within 1 hour after the initiation of the intervention by ~~the~~ a licensed independent practitioner ~~who issued the order~~ or a specially trained registered nurse. The specially trained registered nurse must consult the licensed independent practitioner who is responsible for the care of the patient as soon as possible after completing the face-to-face assessment. The ~~one-hour~~ assessment must evaluate:

1. The patient's immediate situation;

2. The patient's reaction to the intervention;

3. The patient's medical and behavioral condition; and

4. The need to continue or terminate the emergency involuntary procedure.

d. At the end of 2 hours, if the continued use of restraint or seclusion is deemed necessary based on an individualized patient assessment, another order is required. No order for restraint or seclusion shall exceed 2 hours.

e. The ~~LIP~~ licensed independent practitioner who is responsible for the care of the patient must see and assess the patient before writing a new order for the use of restraint or seclusion if the patient has been in seclusion or restraint for 12 hours.

3.5 Observation and Assessment

a. The condition of the patient who is restrained or secluded must be observed by staff who is trained and competent to perform this task at an

interval determined by the licensed independent practitioner but no less often than every fifteen (15) minutes.

b. The patient shall be monitored by a licensed independent practitioner or by a specially trained registered nurse to determine the continued need for the emergency involuntary procedure.

c. Hospital policies are expected to guide staff in determining appropriate intervals for assessment and monitoring based on the individual needs of the patient, the patient's condition, and the type of restraint or seclusion used, but no less often than every fifteen (15) minutes. Any such policy shall be reviewed as part of the hospital designation process.

d. Depending on the patient's needs and situational factors the use of restraint or seclusion may require either periodic or continual monitoring and assessment.

e. Hospitals shall debrief staff following every incident involving the use of emergency involuntary procedures. Hospitals also shall give patients reasonable opportunities to debrief within 24 hours of the resolution of ~~regarding~~ every such incident. The debriefing shall include, at a minimum, the elements required by the Department of Mental Health, which shall be adopted within three months of the promulgation of this rule.

3.6 Documentation of Emergency Involuntary Procedures

a. The use of all emergency involuntary procedures, including any determination made in accordance with 3.7 below, must be documented in the patient's medical record in accordance with the standards set out in the CMS Conditions of Participation, which are incorporated herein by reference.

b. Within three months of the promulgation of this rule, the Commissioner of the Department of Mental Health shall specify the elements each hospital must document for each emergency involuntary procedure order for patients in the custody of the Commissioner for the purposes of departmental oversight and review.

c. Once the elements have been specified as described in subsection 3.6 (b), if necessary, hospitals shall have up to thirty days to develop a process for the submission of the information to the department. The Commissioner may grant an extension to a hospital if there are significant technical barriers to compliance with this requirement.

d. Hospitals shall submit the documentation on a monthly basis to the Commissioner.

e. The test of adequacy of documentation is whether an independent qualified mental health professional could readily verify from such documentation the factual basis for and the medical necessity of the prescribed action, as well as its involuntary administration. The elements of adequacy shall enable the reviewer to determine whether relevant standards, policies and regulations were complied with, including:

1. The necessity for the action taken to control the emergency;

2. The expected or desired result of the action on the patient's behavior or condition;

3. Whether alternatives were considered or used, and why they were ineffective to prevent the imminent risk of serious bodily harm;

4. The risks of adverse side effects; and

5. When used in combination, the basis for the determination by the licensed independent practitioner that the use of a single emergency involuntary procedure would not have been effective to prevent the imminent risk of serious bodily harm.

3.7 Use of Emergency Involuntary Procedures in Combination

Emergency involuntary procedures may only be used in combination when a single emergency involuntary procedure has been determined in the clinical judgment of the licensed independent practitioner to be ineffective to protect the patient, a staff member, or others from the imminent risk of serious bodily harm.

a. A comprehensive assessment of the patient must determine that the risks associated with the use of a combination of emergency involuntary procedures are outweighed by the risk of not using a combination of emergency involuntary procedures.

b. Other interventions do not always need to be tried, but they must be determined by the practitioner to be ineffective to protect the patient or others from the imminent risk of serious bodily harm.

c. The use of restraint only for the purpose of administering a court-ordered involuntary medication is not considered the use of a combination of emergency involuntary procedures.

Section 4. Additional Requirements for Emergency Involuntary Procedures

4.1 Emergency Involuntary Medication

a. Emergency involuntary medication shall be used on a time-limited, short-term basis and not as a substitute for adequate treatment of the underlying cause of the patient's distress.

b. When necessary to administer involuntary medication by injection in emergency situations, a non-depot medication that is consistent with current American Psychiatric Association practice guidelines shall be used.

c. When the use of emergency involuntary medication has been ordered, the patient shall be offered oral medication prior to the implementation of the order.

d. If possible and where clinically appropriate the hospital shall give the patient a choice of injection sites and shall follow that preference if medically safe.

e. A patient who has received emergency involuntary medication shall be monitored for adverse effects at least every 15 minutes for as long as clinically indicated following the administration of emergency involuntary medication. Each observation shall be documented.

4.2 Seclusion

a. The placement of a patient in seclusion and the duration of its use shall be kept to a minimum, consistent with the safe and effective care of

patients. The use of seclusion shall adequately accommodate a patient's physical and environmental needs without undue violation of his or her personal dignity.

b. Seclusion is not just confining a patient to an area, but involuntarily confining the patient alone in a room or area where the patient is physically prevented from leaving. If a patient is restricted to a room alone and staff are physically intervening to prevent the patient from leaving the room or giving the perception that threatens the patient with physical intervention if the patient attempts to leave the room, the room is considered locked, whether the door is actually locked or not.

c. ~~The order for seclusion of a patient may be written only by~~ Only a licensed independent practitioner may order seclusion of a patient.

d. Within one hour of the initiation of the ~~safety intervention~~ procedure, individuals placed in seclusion shall be assessed by a licensed independent practitioner or specially trained registered nurse. If assessed by a specially trained registered nurse, that individual must consult the licensed independent practitioner who is responsible for the care of the patient as soon as possible after completing the assessment. This assessment must occur face-to-face and shall include, but not be limited to, an assessment of:

1. The individual's physical and psychological status;

2. The individual's behavior;

3. The appropriateness of the intervention measures;

4. Any complications resulting from the intervention; and

5. Whether the individual is aware of what is required to be released from seclusion.

e. A patient in seclusion shall be observed continuously by a staff member who has successfully completed competency-based training on the monitoring of persons in seclusion ~~on a frequency determined by a licensed independent practitioner, but no~~ and the observation shall be documented no less often than every fifteen (15) minutes.

f. At least hourly, a specially trained registered nurse (RN) must assess the continued need for the emergency seclusion intervention and document assessment and ongoing need for the intervention.

g. The seclusion shall be ended at the earliest possible time that the patient no longer is considered an imminent risk of serious bodily harm.

4.3 Restraint

a. The involuntary placement of a patient in restraints shall occur only in emergency circumstances and in the least intrusive and least restrictive manner.

b. Restraints are to be applied in the least intrusive and least restrictive manner, providing for padding and protection of all parts of the body where pressure areas might occur by friction from mechanical restraints.

c. Patients in restraints shall be encouraged to take liquids, shall be allowed reasonable opportunity for toileting, and shall be provided appropriate food, lighting, ventilation and clothing or covering.

d. Mechanical restraints shall not be used when the patient is in a prone position.

e. ~~The order for the restraint of a patient may be written only by~~ Only a ~~physician or~~ licensed independent practitioner may order the restraint of a patient.

f. A licensed independent practitioner or specially trained registered nurse shall assess the patient within one hour of the application of the restraints. If assessed by a specially trained registered nurse, that individual must consult the licensed independent practitioner who is responsible for the care of the patient as soon as possible after completing the assessment. This assessment must occur face-to-face and shall include, but not be limited to, an assessment of:

1. The individual's physical and psychological status;

2. The individual's behavior;

3. The appropriateness of the intervention measures;

4. Any complications resulting from the intervention; and

5. Whether the individual is aware of what is required to be released from restraint.

g. A patient in restraints shall be observed continuously by a staff member who has successfully completed competency based training on the monitoring of persons in restraint. The observation shall be ~~conducted at the frequency determined by the licensed independent practitioner, but~~ documented no less often than every fifteen (15) minutes.

h. The restraint shall be ended at the earliest possible time that the patient no longer is considered an imminent risk of serious bodily harm.

Section 5. Notice Requirements

5.1 The hospital medical record shall include documentation about the use of emergency involuntary procedures. The record shall include all of the elements specified by the Department of Mental Health. Reports of the use of emergency involuntary procedures shall be sent to the Department of Mental Health on a monthly basis.

5.2 The court-appointed guardian of the patient and any health care agent of the patient under an advance directive that is in effect shall be notified of every emergency involuntary procedure(s) as soon as practicable but not later than twenty-four (24) hours from each application.

5.3 The hospital shall inform patients about their right to have someone notified whenever an emergency involuntary procedure is applied to them. With the patient's consent, any person identified by the patient, including a health care agent, shall be notified of the use of emergency involuntary procedure(s) as soon as practicable but not later than twenty-four (24) hours from each application.

Section 6. Staff Training

6.1 General

The patient has the right to safe implementation of emergency involuntary procedures by trained staff.

6.2 Specific Training Requirements

a. Any staff members who participate in emergency involuntary procedures must be trained and able to demonstrate competency in the application of restraints, implementation of seclusion, monitoring, assessment (if applicable) and providing care for a patient in restraint or seclusion before performing any of the actions specified in this paragraph, as part of orientation and subsequently on a periodic basis consistent with hospital policy. Staff members shall perform only those tasks in which they have been found competent.

b. The hospital shall require staff who may be involved with emergency involuntary procedures to have education, training, and demonstrated knowledge based on the specific needs of the patient population in at least the following:

1. The use of nonphysical intervention skills;

2. Choosing an intervention based on an individualized assessment of the patient's medical or behavioral status or condition;

3. The safe application and use of all types of restraint or seclusion used in the hospital, including training in how to recognize and respond to signs of physical and psychological distress;

4. Clinical identification of specific behavioral changes that indicate that emergency involuntary procedures are no longer necessary;

5. Monitoring the physical and psychological well-being of the patient who is restrained or secluded, including but not limited to, respiratory and circulatory status, skin integrity, vital signs, and any special requirements specified by hospital policy associated with the 1-hour face-to-face evaluation;

6. The use of first aid techniques (except in the case of licensed, registered nurses) and certification in the use of cardiopulmonary resuscitation, including required periodic recertification;

7. Individuals providing staff training must be qualified as evidenced by education, training, and experience in interventions used to address patients' behaviors; and

8. The hospital must document in the staff personnel records that the training and demonstration of competency were successfully completed.

9. The recognition of a patient's history in the provision of trauma-informed care, including, but not limited to, a history of sexual or physical assault or incest.

c. Training for an RN or PA to conduct the 1-hour face-to-face evaluation shall include all of the training requirements in this section as well as ~~content to evaluate~~ an evaluation of the patient's immediate situation, the patient's reaction to the intervention, the patient's medical and behavioral condition, and the need to continue or terminate the emergency involuntary procedure. An

assessment of the patient's medical condition shall include a complete review of system assessment, behavioral assessment, as well as review and assessment of the patient's history, medications, most recent lab results, etc.

d. The hospital shall provide trauma-informed training to staff who may be involved with emergency involuntary procedures.

6.3 Staff Competency

The Department shall review the competency and training records of each hospital as part of the hospital designation process.

Section 7. Oversight and Performance Improvement

7.1 Hospital Leadership Responsibilities

Hospital leadership is responsible for creating a culture that supports a patient's right to be free from restraint or seclusion.

a. Leadership must ensure that systems and processes are developed, implemented, and evaluated that support patients' rights and that eliminate the inappropriate use of emergency involuntary procedures.

b. Each hospital shall report on the use of emergency involuntary procedures using measurement specifications identified by the Department of Mental Health using a format approved in advance by the Department.

c. Each hospital shall identify an internal performance improvement process for regularly meeting and reviewing its training, documentation, and practice trends pertaining to emergency involuntary procedures with its local quality advisory body. Information generated shall be used to inform the Emergency Involuntary Procedures Advisory Panel quarterly meetings.

~~e~~d. As part of its quality assurance performance improvement program, each designated hospital shall review and assess its use of emergency involuntary procedures to ensure that:

1. Patients are cared for as individuals;

2. Each patient's condition, needs, strengths, weaknesses and preferences are considered;

3. Emergency involuntary procedures are used only to address the imminent risk of serious bodily injury to the patient, staff, and others;

4. Involuntary emergency procedures are discontinued at the earliest possible time, regardless of the length of the order; and

5. When emergency involuntary procedures are used, de-escalation interventions were ineffective to protect the patient, a staff member, or others from harm.

7.2 Medical Director Review

a. As soon as practicable but no later than 2 working days following an order for an involuntary emergency procedure, the designated hospital unit's Medical Director, or his or her designee, shall review the incident.

b. The Medical Director of the Department of Mental Health, or his or her designee, shall review all orders of emergency involuntary procedures at least once every thirty (30) days.

7.3 Death Reporting

a. Hospitals must report deaths associated with the use of emergency involuntary procedures to the Commissioner of the Department of Mental Health by telephone no later than the close of business the next business day following knowledge of the patient's death.

b. Staff must document in the patient's medical record the date and time the death was reported.

c. The hospital must report the following information:

1. Each death that occurs while a patient is in restraint or seclusion;

2. Each death that occurs within 24 hours after the patient has been removed from restraint or seclusion; and

3. Each death known to the hospital that occurs within 1 week after restraint or seclusion where it is reasonable to assume that use of restraint or placement in seclusion contributed directly or indirectly to a patient's death.

Section 8. Emergency Involuntary Procedures Advisory Panel

8.1 Membership

a. The Commissioner of the Department of Mental Health shall designate and empanel individuals to be the members of an Emergency Involuntary Procedures Advisory Panel (Advisory Panel).

b. The Advisory Panel shall include representatives from the clinical staff of each of the designated hospitals, a representative from the clinical staff of a designated agency that provides services to individuals who have been hospitalized, staff from the Department of Mental Health, a representative from the Department of Disabilities, Aging and Independent Living's Division of Licensing and Protection, a peer and ~~no fewer than two individuals~~ a person with lived mental health experience (who may be a peer or a family member). The clinical staff on the Panel shall be knowledgeable about the use of seclusion and restraint.

8.2 Function and Responsibilities

a. The Advisory Panel shall receive aggregate data that has been prepared by the clinical leadership teams of the designated hospitals and the state-operated facility regarding all orders of emergency involuntary procedures (involuntary medication, seclusion and restraint). The aggregate data shall be sent to the Department of Mental Health's Quality Management Director in monthly reports.

b. The Advisory Panel shall meet quarterly to review the aggregate data reports submitted by the designated hospitals and the state-operated facilities.

c. The Advisory Panel shall review adherence to the requirements of the standards and the appropriateness of the decisions to use emergency involuntary

procedures. The Advisory Panel shall make suggestions and recommendations to the Quality Management Director, the Medical Director and the Commissioner of the Department of Mental Health.

d. The Advisory Panel may request the attendance of any person it deems helpful to the review process, including hospital staff, patients, their attorneys, outside qualified mental health professionals or other chosen support persons, to its quarterly meetings.

e. If a patient wishes to present a grievance or a complaint regarding the use of an emergency involuntary procedure, he or she may request the opportunity to appear before the Advisory Panel with regard to specific issues for consideration. Patients presenting a grievance or complaint to the Advisory Panel may be accompanied by a person or persons of their own choosing. The patient's complaint and the resolution of that complaint by the Advisory Panel shall be treated as "peer review" and therefore as confidential and not subject to discovery.

f. Representatives of a facility with a specific case under review may participate in the discussion but shall take no role in the Advisory Panel's conclusions or recommendations.

g. The purpose of the Advisory Panel is to ensure external review and oversight of emergency involuntary procedures. The panel shall review compliance with the procedures required by this rule, whether their rights, dignity and interests of the patient have been considered and protected and the appropriateness of clinical decisions including the prescribed medication and its dosage and the use and duration of seclusion and restraint.

h. The Advisory Panel shall have access to all relevant records or other information needed to perform its reviews.

8.3 Annual Report

a. The Advisory Panel shall prepare an annual report summarizing its advisory work, providing suggestions and recommendations regarding adherence to these standards, including trends in the frequency in the use of emergency involuntary procedures, findings relative to compliance with the requirements for the use of such procedures, the need for staff training, and other related matters.

b. A copy of the report shall be provided to the Commissioner of the Department of Mental Health. Copies of the report also shall be provided to the designated hospitals and members of the Advisory Panel.