

CHAPTER 13: MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES DURING CONFINEMENT

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MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES DURING CONFINEMENT

This chapter should be read in conjunction with the previous chapter, “Medical Services During Confinement” and the chapter, “Mental Health and Substance Abuse Services in the Community.”

For youth in programs licensed by the state Department of Early Education and Care (DEEC), this chapter should also be read in conjunction with the explanation of DEEC regulatory requirements regarding mental health care, discussed above in the chapter entitled “Overview of Rights During Confinement.”

This chapter does not apply to youth held in pre-arraignment detention facilities known as Alternative Lockup Programs (ALPs) perhaps with certain exceptions for youth in DYS-run ALP beds.

DYS identification of mental health problems

Youth who become involved in the juvenile justice system are more likely to experience mental illness problems than their peers. Simply going through the juvenile justice system and living away from home can create or add to such problems.

Many youth who enter the juvenile justice system have been diagnosed with mental illness, but for others, these problems are not identified until after they undergo DYS intake, the DYS 30 to 45 day assessment, or treatment in a DYS program.


This section describes screening for self-harm that DYS pursues for youth entering secure facilities, residential facilities and community placements. These screenings are in addition to the screening and examination practices discussed in the previous chapter, “Medical Services During Confinement.”

DYS policies ensure that youth entering secure facilities, residential facilities and community placements receive an assessment of their risk of self-harming.¹

As part of the intake to a *secure unit* or a *residential unit*, staff must conduct a suicide assessment.² This assessment must occur as soon as possible, but in no case longer than six hours after arrival.³ The assessment must include: obtaining a history of prior suicide attempts, gestures or ideation; reviewing written material regarding the youth;

recording communications from transportation staff and prior placements; completing the intake screening forms; requesting information from parents or legal guardians; and administering an assessment tool called the Massachusetts Youth Screening Instrument, Second Version (MAYSI-2).⁴ A more limited intake screening may occur, however, if a youth is arriving from another DYS facility and certain conditions are met.⁵

When a youth is referred to a *community placement*, the DYS caseworker or DYS community monitor assigned to the youth shall receive a referral package, which he or she must review for information related to psychiatric hospitalizations, suicidal gestures, suicidal ideation or any other information suggesting an elevated risk of suicide.⁶ Youth with a history of suicidal ideation or suicide attempts must receive appropriate referrals for outpatient treatment as part of the treatment plan.⁷ The plan must be in place prior to the youth's arrival at the placement.⁸ Youth who appear to be at an immediate elevated risk of suicide will be referred to the Emergency Screening Team for evaluation, including evaluation of the need for psychiatric hospitalization.⁹

 **Tip for families:** If you have concerns regarding your child's mood or behavior while he is in a DYS run or contracted facility, let both your child's caseworker and facility staff – particularly clinical staff – know so that they can help your child receive appropriate assessment and treatment.

DYS identification of substance abuse problems


As soon after intake as a bed becomes available, the youth will be moved to an assessment unit for a 30 to 45 day assessment. The assessment must include a screening to determine any misuse, abuse or dependency on drugs, a medical examination, and identify needed relapse prevention education.¹⁰

According to DYS, all committed youths are screened for substance abuse disorders by using the Substance Abuse Subtle Screening Inventory (SASSI) or the Adolescent Diagnostic Interview (ADI).¹¹

The assessment then should be used to create a service plan that includes substance abuse treatment services, if needed.¹² The service plan will then be used to draft a treatment plan which details treatment to be provided.

Monitoring of youth identified as posing a risk of self-harm or suicide

Teenagers are at a high risk, relative to other age groups, for suicide. Gay, lesbian, bisexual, transgender, and queer youth are at a greater risk than their heterosexual peers. Youth involved with the juvenile justice system tend to have higher rates of mental health problems than the general adolescent population. In addition, the lives of youth who are in DYS custody are often further stressed by being in custody. Thus, some children held in DYS facilities attempt suicide. This fact is not surprising, although it is extremely concerning.

 **Tip for families:** Suicide warning signs include: suicide threats, prior attempts, preoccupation with death and dying, depression and behavior changes, and choosing to part with favorite possessions.

DYS facilities must have procedures in place to identify potential suicide risk. Youth who are identified as at risk are provided with heightened supervision. The DYS policies on suicide assessment describe four status levels for youth: full suicide watch, elevated suicide watch, suicide alert status and general status. Full suicide watch provides the most supervision, involving observing staff being no more than six feet from the youth at all times.¹³ Elevated suicide watch provides slightly less supervision, with observing staff being no more than twelve feet away at all times.¹⁴ Suicide alert status provides slightly less, with observing staff regularly checking the behavior of the youth including four minute room checks and constant motion checks at night or when the youth is in his room, but not maintaining constant supervision.¹⁵ General status is the status of youth not on a suicide watch; these youth receive ten minute room checks and constant motion checks at night or whenever they are in their rooms.¹⁶ The secure and residential facilities policies spell out procedures for the four levels of watch.¹⁷


When a youth in a secure or residential facility is on a full suicide watch, staff must contact an Emergency Screening Team so the team can conduct an evaluation of the youth, including an evaluation as to whether the youth needs psychiatric hospitalization.¹⁸

If a youth in a *secure or residential facility* makes a suicide attempt that has resulted in any injury, the youth must be seen by medical personnel as soon as possible.¹⁹ If the attempt has resulted in no injury, it must be documented, the youth elevated to a full suicide watch and the unit must call the emergency screening team.²⁰ If the attempt has resulted in serious injury, the youth must be transported to the emergency room immediately for treatment.²¹ If a youth informs unit staff that he feels

unsafe or wishes to harm himself, the staff must notify the shift supervisor or administrator and place the youth on elevated suicide watch.²²

If a youth has made a suicide attempt at a *community placement* that has led to serious injury, the youth must be transported to the emergency room immediately for treatment by ambulance.²³ Parents or legal guardians should be notified as soon as possible.²⁴ If the youth has made an attempt that hasn't led to serious injury, the youth should be transported to the emergency room as soon as possible.²⁵ Parents or legal guardians should be notified as soon as possible.²⁶ If the youth has made an attempt that hasn't resulted in injury, the attempt must be documented and parents or legal guardians notified as soon as possible.²⁷

If a DYS caseworker or other community staff receives a report from a youth, parent, teacher, or other reliable source that a youth (who isn't currently physically present in the placement) may be feeling unsafe or wishes to harm himself, the caseworker or staff must refer the youth for assessment by a mental health professional.²⁸ If the caseworker or staff believes the youth is in immediate danger, the caseworker or staff must call police, as appropriate so that they may protect the youth.²⁹ If the danger is not immediate, but there is some risk the caseworker must attempt to ensure the youth's safety by taking steps, listed in DYS policy, to help the youth accept mental health services.³⁰

 **Tip for families:** If you are worried that your child is at risk, alert DYS and monitor the response to your concerns. Seek out the DYS Regional Director if you don't think the staff is handling the situation appropriately.

DYS pursuit of a follow-up clinical evaluation

When DYS has questions regarding a youth that requires in depth examination, DYS may request an in-depth forensic evaluation. Currently, DYS contracts with an outside provider, Bedford Policy Institute (BPI), to provide these evaluations. Evaluations may be conducted for any of the following purposes:

- to evaluate whether a youth poses a high risk of harm to himself or to others (and perhaps to conduct a needs assessment), particularly to determine whether a youth is ready for release on a projected date;
- to provide extension of commitment evaluations;
- to provide evaluations of youth with a history of sexual offenses;
- to perform evaluations for the court in response to a

judge's referral of a child to DYS³¹ and other court-related evaluations; or

- to provide mental health treatment recommendations.

Such an evaluation carries weight with DYS, but ultimately DYS must reach its own decision regarding a youth's future. In some cases, that decision may contradict the evaluator's recommendations.

Evaluations are often based on a review of the offense history and the youth's conduct since coming to DYS. The evaluator likely will look at records and talk to the youth, DYS clinicians and family.

Information that a youth or family member provides to the evaluator will not be kept private or confidential and can be included in the report to DYS. Prior to conducting the evaluation, the evaluator must warn the person being interviewed that the information disclosed to the evaluator will not be kept private. This warning is called a "Lamb warning," after the case, *Commonwealth v. Lamb*, that dictates that such a warning be given.³² The warning should include notice that the information could be used in a proceeding to extend commitment to DYS.³³ The evaluator should inform those interviewed of that fact.

Traditional DYS counseling services


While services vary by site, many DYS facilities also offer counseling to help develop accountability and social skills development. This form of counseling is not treatment for mental health problems, but is designed to help children develop the social skills and competencies they need to be functioning members of the community. This counseling is aimed at helping the child recognize why he broke the law in the first place, how to avoid falling back into the same behaviors, and how to develop consistently "pro-social behaviors."

Obtaining mental health and substance abuse services

DYS must provide DYS-involved youth with services to prevent delinquency.³⁴ These include services to diagnose and treat mental health and substance abuse problems.³⁵ Services should be appropriate to the youth's condition and delivered by health care professionals. Further, mental health and substance abuse services should be provided in coordination with one another.

With respect to mental health services, DYS programs have a

clinical director and clinicians working under the clinical director. These individuals deliver mental health treatment. DYS youth should be able to access a full range of services including assessments, medication, individual therapy, and group therapy.

 **Tip for families:** If your child already has a mental health clinician, such as a psychologist or psychiatrist, in the community, he may be able to continue seeing that clinician if the clinician is willing to come to the DYS facility to provide treatment. Talk to the clinician and the staff at the DYS facility to see if such arrangements are possible.


If a youth needs a high level of mental health services, DYS can, upon classification or at some later point, send the youth to a specialized DYS program. For example, DYS has a hardware secure unit for boys with serious mental health needs called the Butler Center, which is located on the grounds of Westborough State Hospital. Similarly, DYS has a hardware secure unit for girls with serious mental health needs called the Fay A. Rotenberg School for Girls, which is located in the Zara Cisco Brough Center on the grounds of Westborough State Hospital.

If a youth needs more mental health care than DYS can provide at one of their facilities, he should be transferred to another setting. For example, if he needs acute care, he should be transferred to a hospital psychiatric unit. If he is eligible for Department of Mental Health (DMH) care, he may have other options (discussed below).

With respect to substance abuse treatment, the treatment should be appropriate to the youth's needs. Substance abuse treatment should be available in all DYS programs. However, DYS reports in 2005 that "substance abuse services are under-resourced at all stages of a youth's movement through the DYS system from detention through assessment through residential treatment and community supervision."³⁶ In 2005, DYS hoped that gaps would begin to be addressed through a contract with a new substance abuse services vendor.³⁷ In late 2007, DYS reported that these identified gaps were largely filled and that it was in the process of revising its substance abuse policies.³⁸

DYS committed youth also should be able to access substance abuse services in the community. A DYS contract with Institute for Health Recovery (IHR) provides substance abuse care coordination and referral in each DYS region.³⁹ In the community, DYS relies on MassHealth, private insurance, and outside community resources to provide substance abuse services for DYS clients.⁴⁰ For a youth identified as having a substance abuse problem who is released to the community, the re-entry plan includes specific provisions for substance abuse treatment.⁴¹

Additionally, DYS youth may be referred to community-based residential substance abuse programs, offered by the state Bureau of Substance Abuse Services, after the DYS assessment process.⁴² Similarly, committed youth have been referred to these residential programs after having served a period of time in a DYS secure treatment program.⁴³ For more information about residential substance abuse programs, see the chapter entitled “Mental Health and Substance Abuse Services in the Community.”


 **Tip for families:** You may need to advocate for your child to receive the substance abuse services he needs. Be sure to attend your child’s staffing and monthly treatment team meetings. Talk to your child’s DYS caseworker. In addition, do not be reluctant to ask to talk directly with your child’s mental health or substance abuse treatment providers.

Effective mental health treatment

Effective mental health treatment for children and adolescents may involve multiple components. One description of effective treatment is treatment that:

- simultaneously addresses multiple risk factors;
- is tailored to the individual child;
- is sufficient in duration;
- maintains high standards; and
- is implemented by qualified staff.

Usually, it is more effective to receive treatment in the community, when possible.


 **Tip for families:** Effective treatment may involve medication alone, but, more often involves medication in conjunction with other services, such as talk therapy. In fact, a child may receive effective treatment that involves no medication at all. Before making a decision about medication, you should familiarize yourself with the range of types of treatment available for your child. If possible, it is advisable to seek a second opinion such as, for example, from your child’s community-based doctor.


Rights to receive and to refuse medication

If a youth has a mental illness and his parents or legal guardian and his doctor believe he would benefit from psychotropic medication -

- medication that affects mood thought processes or behavior and used in the treatment of mental disorders, he has the right to receive such medications while in a DYS facility.⁴⁴

It is the responsibility of the health care team treating the youth to make decisions as to whether or not to prescribe prescription medication and at what dosages to prescribe it. However, the ultimate power to prescribe rests with the treating psychiatrist.

 **Tip for families:** It is important to work closely with your child's psychiatrist to assess whether psychotropic medication is appropriate for your child and, if so, which one(s). DMH has published a useful guide entitled "Psychoactive Medication for Children and Adolescents: Orientation for Parents, Guardians, and Others" (rev. 2005), available at http://www.mass.gov/Eeohhs2/docs/dmh/publications/psychoactive_booklet.pdf. In addition, a list of questions to ask when speaking with your child's psychiatrist about psychotropic medication can be found in "Psychopharmacology for Children and Adolescents: An Overview" (2001) by Robert D. Fleischner, available at <http://www.centerforpublicrep.org/juvenile-justice/psychopharmacology-for-children-and-adolescents>


 **Tip for families:** If you have concerns about your child's response (or lack of response) to medications, it is important to alert your child's health care team. These could include a concern that your child may be receiving too much (or even too little) medication. Interestingly, a recent study found less use of behavioral health medications in DYS-involved youth than in similarly situated children not involved in DYS (but also receiving MassHealth and Massachusetts Behavioral Health Partnership services). The study also raised a concern about the possible underutilization in DYS locked settings of behavioral health medications for treating youth diagnosed with bipolar disorder.⁴⁵

If a psychiatrist has prescribed an anti-psychotic drug, mood altering drug, or psychostimulant, DYS must obtain written consent from the parent or legal guardian (of a youth under age 18) before the youth may take the medication.⁴⁶ If the youth (age 18 or older) or parent does not consent to such a medication (or no parent of a minor youth is available to consent), the youth is watched (absent a medical emergency).⁴⁷ If the youth's condition begins to deteriorate or there will be a medical emergency if the youth does not take the recommended medication(s), the youth is referred to a medical facility.

The health care team treating a youth in DYS custody may order continued treatment with psychotropic medications if parents or legal

guardians cannot be reached and abrupt withdrawal may pose a risk to the youth.⁴⁸ Administration may continue until the parent or legal guardian is contacted.⁴⁹

If a youth does not want to take a psychotropic medication, DYS will not force him to and will not pursue judicial authorization.⁵⁰ Thus, medication prescribers must obtain informed consent from the youth (and from the parent or legal guardian if the youth is under age 18) before administering psychotropics.⁵¹ The medication prescriber must explain to the youth and parents or legal guardians: the purpose of the medication; the targeted behavior, thoughts or symptoms; the potential benefits or expected outcomes; all common and all potentially serious side-effects, including their probability; alternative treatments, if any; the youth's right to change his mind at a later date; all tests needed to monitor side effects and/or therapeutic efficacy; the likely duration of treatment, if known; and the approximate time until the next evaluation.⁵² Consent must be documented in writing and the documentation included in the youth's medical file.⁵³

 **Tip for families:** If you or your child has questions about the medication, ask to talk with your child's prescribing doctor. You should be allowed to communicate directly with your child's doctor. If you are having difficulty doing so, contact your child's DYS caseworker. If that is not successful, contact the caseworker manager/supervisor. If that fails, contact the DYS Regional Director or the DYS Director of Clinical Services.

Additional provisions regarding psychotropic medication for committed youth and for detained youth

Committed youth

DYS will only treat committed youth with psychotropic medication after a psychiatric evaluation and as part of an overall treatment plan.⁵⁴

Detained youth

DYS must continue to provide youth entering a detention facility from court with currently prescribed psychotropic medication if the parent or legal guardian and the youth confirm information about the current treatment and give consent for continuing treatment.⁵⁵ The program director or clinical staff must call the parent or legal guardian and the prescribing physician of a youth entering detention to confirm that the

youth is currently being treated with psychotropics.⁵⁶ The prescribing psychiatrist then may order the same medication from the pharmacy affiliated with DYS.⁵⁷ Treatment will continue if the parent or legal guardian gives consent,⁵⁸ or temporarily if a physician or psychiatric consult determines that interrupting the medication would be unsafe.⁵⁹


Administering medication

If a youth in DYS custody needs medication, the medication prescriber calls the prescription into a designated pharmacy and it is delivered to the program for administration to the youth.⁶⁰


DYS residential facilities may only order prescriptions from designated pharmacies.⁶¹ All prescriptions for solid oral medications shall be filled using blister packages.⁶² Facilities then will hold and dispense medications. Prescriptions filled outside of DYS supervision may not be accepted.⁶³ DYS is in the process of revising its policy to provide for self-administration of medication by youth.⁶⁴


In light of the above cited policies, DYS programs will not accept medication directly from parents. Parents should make sure, instead, to have the community medication prescriber call the DYS health care team and call the prescription into the DYS designated pharmacy.⁶⁵

If a parent or legal guardian does inform DYS staff that medication is needed, location staff is to contact medical staff immediately.⁶⁶ If the staff believes that the medication is needed immediately, they must call it into the pharmacy for delivery or pick up within four hours.⁶⁷

 **Tip for families:** If you have contact information for your child's community prescriber or you have actual prescriptions, bring them to location staff. If you have medication that you believe your child needs urgently, bring it to the location staff and ask that they proceed according to DYS's medication administration policy.⁶⁸

A youth in DYS custody has an absolute right to receive the medication he has been prescribed. The staff at the facility may not withhold his medication for disciplinary reasons.

 **Tip for families:** If staff persons are withholding prescribed medication from or not properly dispensing it to your child, ask to speak directly with the prescribing doctor. You could also speak to the facility supervisor and/or your child's DYS caseworker.

 **Tip for families:** DYS is not set up to start courses of psychiatric medication in its facilities. However, DYS seeks to ensure that any medications a youth is already taking are continued. If your child is going to miss doses of psychiatric medication, tell your child that this may affect how he feels and let him know that he should tell staff if he is experiencing withdrawal effects.

Department of Mental Health services

If a youth in a DYS facility needs acute care mental health services, he may need to be transferred to an acute care facility for psychiatric treatment. Although DMH does contract for adolescent continuing care inpatient services at Intensive Residential Treatment Programs (IRTPs), at Behavioral Intensive Residential Treatment programs (BIRTs), and at a Clinically Intensive Residential Treatment program (CIRT), most acute psychiatric care is provided not by DMH hospitals, but by private general and private psychiatric hospitals through MassHealth and its managed care entities.⁶⁹ Thus, a youth needing acute mental health care would be transferred to a private facility. In some cases, a youth receiving care in an acute facility will then be transferred to a DMH continuing care facility.⁷⁰

If a youth needs long-term care, he may be transferred to an IRTP pursuant to an agreement between DMH and DYS (even if he was not initially a DMH client).⁷¹ IRTPs are programs contracted by DMH and are located on the grounds of state psychiatric hospitals. These programs are licensed by DMH to provide a secure residential setting for adolescents needing intensive mental health services.

One other way a youth might come into a DMH facility is for an evaluation for competency to stand trial or for criminal responsibility under Mass. Gen. L. ch. 123, § 15(a) or (b). A youth found incompetent to stand trial or not guilty by reason of mental illness could be subsequently committed to a DMH facility under Mass. Gen. L. ch. 123, § 16(b).⁷²


Additional information regarding DMH services is included in the chapter entitled “Health Insurance and Other Health Care Funding Sources in the Community” below.


Residential educational placement

If a youth needs intensive mental health services, but does not require the security of a locked psychiatric unit (and the youth is eligible for special education services), DYS could transfer the youth to a special education residential school that offers specialized services to mentally

ill youth. There are many DESE-approved special education residential schools in Massachusetts.

Before DYS could make such a transfer, the youth's educational team must agree that a residential placement is necessary and also agree to the particular placement. In addition, the residential placement must accept the youth into its program.

 **Tip for families:** DYS may consider such a placement even before your child's DYS time assignment is up (e.g. before your child has completed his time in secure treatment) because the placement is considered part of an aftercare plan.

 **Tip for families:** If you believe that your child requires more intensive mental health or educational services than those he is currently receiving in DYS, consider contacting one of the organizations that provides legal representation listed in the Resource Guide at the end of this book.

Drug testing

DYS policy provides for drug testing of youth for the presence of drugs and alcohol.⁷³ DYS is in the process of revising its substance abuse and testing policies.⁷⁴

Drug testing of committed youth may occur as part of an individual clinical treatment plan and at the discretion of the health care team.⁷⁵

For DYS committed youth who are living in the community, youth may be tested in accordance with a treatment plan, randomly and/or upon suspicion.⁷⁶ Youth on level 4 also may be tested weekly.⁷⁷

In practice, youth under DYS supervision in the community or in MassHealth substance abuse treatment programs undergo urine testing by community medical providers if it is determined to be "medically necessary" as part of an individual treatment plan.⁷⁸ For DYS youth residing in DYS facilities, medical providers or emergency room personnel may require testing to detect use or abuse of substances and to determine appropriate medical intervention.⁷⁹

Committed youth found positive for drug use are subject to a continuum of care, with a range of programming.⁸⁰ DYS chooses a sanction after reviewing risk to society, nature of the offense for which the youth was committed, the number and nature of past offenses and the presence of other risk factors.⁸¹

When collecting a urine sample, the program staff must be of the same gender as the youth.⁸² DYS policy does not provide for privacy while a youth provides a urine sample.⁸³ Instead, the policy instructs staff to observe to ensure that urine passes directly from the youth to the cup.⁸⁴

Youth in residential or community placements who have positive drug tests will receive treatment interventions, rewards or sanctions, as outlined in the youth's individual service plan.⁸⁵

Endnotes

- 1 DYS Policy # 2.2.5(c), Suicide Assessment in Secure Facilities (June 1, 2006), DYS Policy # 2.2.6(a) Suicide Assessment in Residential Facilities (Nov. 1, 2005), and DYS Policy # 2.2.7(a) Suicide Assessment at Community Placements (Nov. 1, 2005).
- 2 DYS Policy # 2.2.5(c), Suicide Assessment in Secure Facilities (June 1, 2006), Procedures, B, 1; DYS Policy # 2.2.6(a) Suicide Assessment in Residential Facilities (Nov. 1, 2005), Procedures, B, 1.
- 3 DYS Policy # 2.2.5(c), Suicide Assessment in Secure Facilities (June 1, 2006), Procedures, B, 2; DYS Policy # 2.2.6(a) Suicide Assessment in Residential Facilities (Nov. 1, 2005), Procedures, B, 2.
- 4 DYS Policy # 2.2.5(c), Suicide Assessment in Secure Facilities (June 1, 2006), Procedures, B, 2; DYS Policy # 2.2.6(a) Suicide Assessment in Residential Facilities (Nov. 1, 2005), Procedures, B, 2. MAYSI-2 is an assessment tool used to identify signs of mental and emotional disturbances or distress. The tool is divided into seven scales designed to detect alcohol/drug use, angry-irritable behavior, depression and anxiety, somatic complaints, suicide ideation, thought disturbance and traumatic experience.
- 5 DYS Policy # 2.2.5(c), Suicide Assessment in Secure Facilities (June 1, 2006), Procedures, B, 3; DYS Policy # 2.2.6(a) Suicide Assessment in Residential Facilities (Nov. 1, 2005), Procedures, B, 3.
- 6 DYS Policy # 2.2.7(a), Suicide Assessment at Community Placements (Nov. 1, 2005), Procedures, B.1.
- 7 DYS Policy # 2.2.7(a), Suicide Assessment at Community Placements (Nov. 1, 2005), Procedures, B.2.
- 8 DYS Policy # 2.2.7(a), Suicide Assessment at Community Placements (Nov. 1, 2005), Procedures, B.2.
- 9 DYS Policy # 2.2.7(a), Suicide Assessment at Community Placements (Nov. 1, 2005), Procedures, B.2.
- 10 DYS Policy # 2.3.6, Client Substance Use (Sept. 18, 2000), Procedures, C.1.b.
- 11 DYS, Substance Abuse Services for Juvenile Offenders, <http://www.mass.gov/dys>.
- 12 DYS Policy # 2.3.6, Client Substance Use (Sept. 18, 2000), Procedures, C.2.f.
- 13 DYS Policy # 2.2.5(c) Suicide Assessment in Secure Facilities (June 1, 2006), Procedures, F; DYS Policy # 2.2.6(a) Suicide Assessment in Residential Facilities (Nov. 1, 2005), Procedures, E.
- 14 DYS Policy # 2.2.5(c) Suicide Assessment in Secure Facilities (June 1, 2006), Procedures, G; DYS Policy # 2.2.6(a) Suicide Assessment in Residential Facilities (Nov. 1, 2005), Procedures, F.
- 15 DYS Policy # 2.2.5(c) Suicide Assessment in Secure Facilities (June 1, 2006), Procedures, H; DYS Policy # 2.2.6(a) Suicide Assessment in Residential Facilities (Nov. 1, 2005), Procedures, G.
- 16 DYS Policy # 2.2.5(c), Suicide Assessment in Secure Facilities (June 1, 2006), Procedures, I; DYS Policy # 2.2.6(a) Suicide Assessment in Residential Facilities (Nov. 1, 2005), Procedures, H.
- 17 DYS Policy # 2.2.5(c), Suicide Assessment in Secure Facilities (June 1, 2006), Procedures, F, G, H, I; DYS Policy # 2.2.6(a) Suicide Assessment in Residential Facilities (Nov. 1, 2005), Procedures, E, F, G, H.
- 18 DYS Policy # 2.2.5(c), Suicide Assessment in Secure Facilities (June 1, 2006), Procedures, K; DYS Policy # 2.2.6(a) Suicide Assessment in Residential Facilities (Nov. 1, 2005), Procedures, J.
- 19 DYS Policy # 2.2.5(c), Suicide Assessment in Secure Facilities (June 1, 2006), Procedures, L.1; DYS Policy # 2.2.6(a) Suicide Assessment in Residential Facilities (Nov. 1, 2005), Procedures, K.1.

- 20 DYS Policy # 2.2.5(c), Suicide Assessment in Secure Facilities (June 1, 2006), Procedures, L.1; DYS Policy # 2.2.6(a) Suicide Assessment in Residential Facilities (Nov. 1, 2005), Procedures, K.1.
- 21 DYS Policy # 2.2.5(c), Suicide Assessment in Secure Facilities (June 1, 2006), Procedures, L.2; DYS Policy # 2.2.6(a) Suicide Assessment in Residential Facilities (Nov. 1, 2005), Procedures, K.2.
- 22 DYS Policy # 2.2.5(c), Suicide Assessment in Secure Facilities (June 1, 2006), Procedures, L.3.; DYS Policy # 2.2.6(a) Suicide Assessment in Residential Facilities (Nov. 1, 2005), Procedures, K.3.
- 23 DYS Policy # 2.2.7(a), Suicide Assessment at Community Placements (Nov. 1, 2005), Procedures, D.1.
- 24 DYS Policy # 2.2.7(a), Suicide Assessment at Community Placements (Nov. 1, 2005), Procedures, D.1.
- 25 DYS Policy # 2.2.7(a), Suicide Assessment at Community Placements (Nov. 1, 2005), Procedures, D.2.
- 26 DYS Policy # 2.2.7(a), Suicide Assessment at Community Placements (Nov. 1, 2005), Procedures, D.2.
- 27 DYS Policy # 2.2.7(a), Suicide Assessment at Community Placements (Nov. 1, 2005), Procedures, D.3.
- 28 DYS Policy # 2.2.7(a), Suicide Assessment at Community Placements (Nov. 1, 2005), Procedures, E.1.
- 29 DYS Policy # 2.2.7(a), Suicide Assessment at Community Placements (Nov. 1, 2005), Procedures, E.2.
- 30 DYS Policy # 2.2.7(a), Suicide Assessment at Community Placements (Nov. 1, 2005), Procedures, E.3.
- 31 Mass. Gen. L. ch. 119, § 68A.
- 32 365 Mass. 265 (1974).
- 33 *Department of Youth Services v. A Juvenile*, 398 Mass. 516 (1986).
- 34 Mass Gen. L. ch. 18A, § 2.
- 35 See Mass Gen. L. ch. 18A, § 2.
- 36 DYS, 2005 Annual Report (Mar. 2007) http://www.mass.gov/Eeohhs2/docs/dys/annual_report_2005.pdf, at 25. This report offers a description of substance abuse services available in 2005 and subsequent changes to those services.
- 37 DYS, 2005 Annual Report (Mar. 2007), http://www.mass.gov/Eeohhs2/docs/dys/annual_report_2005.pdf, at 25.
- 38 Correspondence from Jane E. Tewksbury, Department of Youth Services to MHLAC (Dec. 27, 2007).
- 39 Correspondence from Jane E. Tewksbury, Department of Youth Services to MHLAC (Dec. 27, 2007).
- 40 Correspondence from Jane E. Tewksbury, Department of Youth Services to MHLAC (Dec. 27, 2007).
- 41 Correspondence from Jane E. Tewksbury, Department of Youth Services to MHLAC (Dec. 27, 2007).
- 42 Telephone conversation with Maggie Giles, Director of Youth Services, Central Intake Coordinator, Institute for Health and Recovery (Feb. 20, 2007).
- 43 Telephone conversation with Maggie Giles, Director of Youth Services, Central Intake Coordinator, Institute for Health and Recovery (Feb. 20, 2007).
- 44 See Mass. Gen. L. ch. 18A, § 2; 109 CMR 11.01, 11.14, 11.15, 11.16.

- 45 Mass. Behavioral Health Partnership, "Patterns of Medication Prescribing for Children in the Massachusetts Child Welfare and Juvenile Justice Systems" (June 30, 2006), http://www.masspartnership.com/provider/index.aspx?InklD=reports.ascx&imgID=Prov_ReportsPublications.jpg, at 20 (35% of DYS youth in locked facilities versus 50% of comparison group, and 20% of DYS involved youth in the community versus 38% of comparison group) and at 14 (62% of DYS youth in locked facilities with a diagnosis of Bipolar Disorder had not received mood stabilizers, compared to 35% of youth in the comparison group).
- 46 109 CMR 11.14(2), 11.15(2), 11.16(2). While these regulations allow DYS the alternative of seeking prior judicial approval, DYS does not pursue this course of action. Correspondence from Jane E. Tewksbury, Department of Youth Services to MHLAC (Dec. 27, 2007).
- 47 Correspondence from Jane E. Tewksbury, Department of Youth Services to MHLAC (Dec. 27, 2007).
- 48 DYS Policy # 2.5.16(b), Use of Psychotropic Medication (Mar. 14, 2000), Policy section.
- 49 DYS Policy # 2.5.16(b), Use of Psychotropic Medication (Mar. 14, 2000), Policy section.
- 50 DYS Policy # 2.5.16(b), Use of Psychotropic Medication (Mar. 14, 2000), Policy section.
- 51 DYS Policy # 2.5.16(b), Use of Psychotropic Medication (Mar. 14, 2000), Procedures, B.2.
- 52 DYS Policy # 2.5.16(b), Use of Psychotropic Medication (Mar. 14, 2000), Procedures, B.3.
- 53 DYS Policy # 2.5.16(b), Use of Psychotropic Medication (Mar. 14, 2000), Procedures, B, 8.
- 54 DYS Policy # 2.5.16(b), Use of Psychotropic Medication (Mar. 14, 2000), Policy section.
- 55 DYS Policy # 2.5.16(b), Use of Psychotropic Medication (Mar. 14, 2000), Policy section.
- 56 DYS Policy # 2.5.16(b), Use of Psychotropic Medication (Mar. 14, 2000), Procedures, C.1.
- 57 DYS Policy # 2.5.16(b), Use of Psychotropic Medication (Mar. 14, 2000), Procedures, C.2.
- 58 DYS Policy # 2.5.16(b), Use of Psychotropic Medication (Mar. 14, 2000), Procedures, C.6.
- 59 DYS Policy # 2.5.16(b), Use of Psychotropic Medication (Mar. 14, 2000), Procedures, C.9.
- 60 Correspondence from Jane E. Tewksbury, Department of Youth Services to MHLAC (Dec. 27, 2007).
- 61 DYS Policy # 2.5.15(b), Medication Administration (Jan. 1, 1999), Policy section.
- 62 DYS Policy # 2.5.15(b), Medication Administration (Jan. 1, 1999), Policy section.
- 63 DYS Policy # 2.5.15(b), Medication Administration (Jan. 1, 1999), Policy section.
- 64 Correspondence from Jane E. Tewksbury, Department of Youth Services to MHLAC (Dec. 27, 2007).
- 65 Correspondence from Jane E. Tewksbury, Department of Youth Services to MHLAC (Dec. 27, 2007).
- 66 DYS Policy # 2.5.15(b), Medication Administration (Jan. 1, 1999), Procedures, D.2.
- 67 DYS Policy # 2.5.15(b), Medication Administration (Jan. 1, 1999), Procedures, D.3, 5.

- 68 DYS Policy # 2.5.15(b), Medication Administration (Jan. 1, 1999).
- 69 Correspondence from Joan Mikula, Department of Mental Health (Jan. 18, 2008).
- 70 These transfers tend to be pursuant to Mass. Gen. L. ch. 123, §§ 10 & 11, or less frequently, Mass. Gen. L. ch. 123, §§ 7 & 8. Correspondence from Lester Blumberg, Department of Mental Health to MHLAC (Mar. 2007).
- 71 Department of Mental Health & Department of Youth Services, Memorandum of Understanding (1999); DMH, Transfer Protocol Guidelines, available at www.mass.gov/dmh.
- 72 Correspondence from Lester Blumberg, Department of Mental Health to MHLAC (Mar. 2007). DMH's position is that Mass. Gen. L. ch. 123, § 18, which addresses transfers to DMH, does not apply to DYS and that Mass. Gen. L. ch. 120, § 10 does not control admissions DMH facilities as such admissions are controlled by Chapter 123. Correspondence from Lester Blumberg, Department of Mental Health to MHLAC (Mar. 2007).
- 73 DYS Policy # 2.3.6, Client Substance Use (Sept. 18, 2000), Procedures, A.7. While current DYS policy provides for drug testing of a committed youth at any time while the youth is in DYS's care and custody, drug testing of court-referred youth at the discretion of the location manager, random drug testing in residential programs at the discretion of the location manager and/or DYS Regional Director or designee, placing youth on an "at-risk" list, and collecting urine samples, DYS no longer conducts such practices. Correspondence from Jane E. Tewksbury, Department of Youth Services to MHLAC (Dec. 27, 2007).
- 74 Correspondence from Jane E. Tewksbury, Department of Youth Services to MHLAC (Dec. 27, 2007).
- 75 Correspondence from Jane E. Tewksbury, Department of Youth Services to MHLAC (Dec. 27, 2007); see DYS Policy # 2.3.6, Client Substance Use (Sept. 18, 2000), Policy section.
- 76 DYS Policy # 2.3.6, Client Substance Use (Sept. 18, 2000), Policy section.
- 77 DYS Policy # 2.3.6, Client Substance Use (Sept. 18, 2000), Policy section.
- 78 Correspondence from Jane E. Tewksbury, Department of Youth Services to MHLAC (Dec. 27, 2007).
- 79 Correspondence from Jane E. Tewksbury, Department of Youth Services to MHLAC (Dec. 27, 2007).
- 80 DYS Policy # 2.3.6, Client Substance Use (Sept. 18, 2000), Procedures, A. 8.
- 81 DYS Policy # 2.3.6, Client Substance Use (Sept. 18, 2000), Procedures, A. 8.
- 82 DYS Policy # 2.3.6, Client Substance Use (Sept. 18, 2000), Procedures, D.2.1.
- 83 DYS Policy # 2.3.6, Client Substance Use (Sept. 18, 2000), Procedures, D.2.b., c.
- 84 DYS Policy # 2.3.6, Client Substance Use (Sept. 18, 2000), Procedures, D.2.b., c.
- 85 DYS Policy # 2.3.6, Client Substance Use (Sept. 18, 2000), Procedures, F.