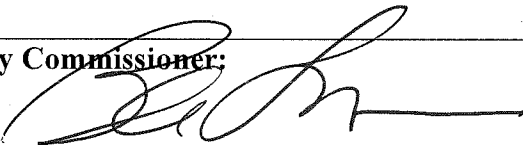


## DMH POLICY

<b>Title: Independent Forensic Risk Assessment and Elective Forensic Consultations</b>	<b>Policy #: 10-01R Date Issued: 11/28/11 Effective Date: 11/28/11</b>
<b>Approval by Commissioner:</b> 	
<b>Signature: Barbara A. Leadholm, M.S., M.B.A.</b>	<b>Date: 11/28/11</b>

### I. PURPOSE

Formal risk assessment in Department of Mental Health (DMH) operated and contracted Facilities is a critical element of treatment and discharge planning. Early identification of a Patient's risks and strengths and timely consultation where appropriate facilitates the ability of the Treatment Team, together with the Patient, to develop strategies that will shorten hospital stays, increase community tenure and enhance recovery. This policy establishes the criteria and process for completing an initial inventory of risks and strengths upon a Patient's admission and, when appropriate, for referring a Patient for an Independent Forensic Risk Assessment (IFRA) and elective forensic consultation.

Forensic Services, through IFRA's, provides risk assessments and recommendations regarding risk management to aid Treatment Teams in making decisions about the granting of certain privileges and discharge. Because the granting of privileges and discharge supports rehabilitation and recovery, timeliness for risk assessment, referral and consultation completion is integral to this policy.

This policy clarifies and replaces Policy #10-01, Independent Forensic Risk Assessment and Elective Forensic Consultations.

## II. SCOPE

This policy applies to DMH-operated and contracted adult inpatient Facilities and units.

## III. DEFINITIONS

**Area Medical Director:** The senior psychiatrist with clinical oversight of Department activities in a particular DMH Area.

**Assistant Commissioner:** The Assistant Commissioner of Forensic Services.

**Business Days:** Monday through Friday, excluding any legal holidays.

**Chief Operating Officer of Facility:** The superintendent, chief operating officer or other head of a Facility.

**Days:** Sunday through Saturday, including legal holidays.

**Facility:** An adult inpatient hospital, unit or bed contracted for or operated by DMH, including DMH-operated units in a Department of Public Health hospital.

**Facility Medical Director:** The senior psychiatrist with supervision and oversight of medical, psychiatric, and other clinical services at a Facility.

**Forensic Consultant:** A clinician appointed by the Assistant Commissioner or his/her designee to perform an IFRA according to this policy.

**Forensic Services:** The unit within DMH that, among other activities, conducts IFRAs to assist Treatment Teams in their risk assessment and risk management functions.

**IFRA Program Director:** A senior DMH forensic employee who is designated by the Assistant Commissioner to oversee administrative and other functions relevant to this policy as provided herein or as determined by the Assistant Commissioner.

**Independent:** External to the Patient's Treatment Team.

**Initial Risk Assessment Form (IRA):** A standard form (Attachment A) approved by the Assistant Commissioner that must be completed and submitted as part of the referral for an IFRA.

**Patient:** A person hospitalized in a Facility other than an individual committed for observation and examination pursuant to M.G.L. c.123, §§15(b), 15(e), 15(f), 16(a) or 18(a) (forensic evaluation status). However, "Patient" shall include such an individual if the individual's legal status changes from a forensic evaluation status to a treatment status.

**Risk Assessment Update Form (RAU):** A standard form (Attachment B) approved by the Assistant Commissioner that must be completed and submitted as part of an IFRA referral if the referral is made more than thirty (30) days after the IRA has been completed. The form provides updated clinical risk information as a supplement to the IRA.

**Senior Forensic Reviewer:** A forensic clinician who is designated by the Assistant Commissioner to provide clinical oversight of all completed IFRA consultations by reading and providing written comments on them in accordance with this policy. The Senior Forensic Reviewer must have substantial experience in risk assessment and risk management and will perform other functions relevant to this policy as determined by the Assistant Commissioner. The Assistant Commissioner may designate more than one Senior Forensic Reviewer and/or a clinician to cover for the Senior Forensic Reviewer when he/she is not available.

**Treatment Team:** The Treatment Team is the multidisciplinary clinical team providing and directly overseeing the care and treatment for a Patient.

#### IV. POLICY

##### A. Overview

1. The IFRA policy provides an added level of clinical review for certain Patients before they are granted certain privileges and/or discharged.
2. IFRAs are mandatory for Patients specified in Section IV.D.1. To help inform treatment planning for these Patients, IRAs must be completed within thirty (30) days of the Patients being admitted to the Facility, or as otherwise specified by the Section IV.D.
3. Elective consultations from forensic consultants may be requested for Patients who do not meet the criteria for IFRAs, but for whom their Treatment Teams have heightened concerns about risk. Requests for an elective forensic consultation must be initiated by the Patient's Treatment Team and be approved by the applicable Area Medical Director.

**B. As part of routine clinical care, every Patient is screened for risk at the time of admission.** As part of this screening, every Patient must be identified for their need for an IFRA as specified in IV.D.1. within ten (10) days of admission or, if a Patient's legal status on admission is a forensic evaluation status, within seven (7) days of a change to a treatment status. Referrals for elective forensic consultations as specified in IV.E.1 can occur at any point in the course of hospitalization.

**C. Completion of Initial Risk Assessments on Admission or Change to Treatment Status.** If a Patient meets the criteria for an IFRA, the Patient's Treatment Team must complete an IRA for the Patient within thirty (30) days of his/her admission to the Facility, or if the Patient was initially admitted on a forensic evaluation status, then the IRA must be completed within ten (10) days of the change of legal status from an evaluation to treatment status. The IRA shall be used by the Treatment Team to inform treatment planning from a risk management perspective. The IRA shall be filed in the Patient's medical record.

**D. IFRA's**

**1. IFRA's.**

- a. Patients Subject to IFRA's. Patients who meet the following criteria must be referred for IFRA's as specified in this Section IV.D.
  - i. Any Patient who has ever been (a) convicted, or (b) adjudicated Incompetent to Stand Trial, or (c) adjudicated Not Guilty by Reason of Insanity for any of the following charges:
    1. Murder
    2. Manslaughter
    3. Kidnapping
    4. Rape
    5. Mayhem
    6. Assault & Battery with Intent to Murder<sup>1</sup>
    7. Assault & Battery with Intent to Rape
    8. Assault with Intent to Murder<sup>2</sup>
    9. Assault with Intent to Rape
    10. Indecent Assault & Battery on child (under 14)
    11. Arson<sup>3</sup>
    12. Stalking
  - ii. Any Patient who has been designated a Level 3 Sex Offender by the Sex Offender Registry Board (SORB).<sup>4</sup>
- b. Privileges and Discharge. A Patient who meets the criteria for an IFRA may not be granted off-ground privileges, unsupervised privileges of any type (either on or off-grounds), or be discharged until either:
  - i. A Forensic Consultant's IFRA report is completed and commented on by a Senior Forensic Reviewer and the report and comments are reviewed and acted upon by the Patient's Treatment Team as provided in Section IV.F; or

---

<sup>1,2</sup> This includes any charge where there is an attempted lethal injury (e.g., Assault to Kill, Assault & Battery With Intent to Kill, Attempted Murder).

<sup>3</sup> Any intentional fire-setting where fire-setting related language is included in the formal criminal charge (e.g. burning of a dwelling).

<sup>4</sup> This includes patients who have *ever* been designated Level 3 Sex Offenders by the SORB.

- ii. The Patient's Treatment Team is notified in writing by the IFRA Program Director pursuant to Section IV.E.4 or by the Forensic Consultant and Senior Forensic Reviewer pursuant to Section IV.D.1.c, that an IFRA is not needed.

If the recommendations in the IFRA report and/or Senior Forensic Reviewer's comments do not support the plans for privileges or discharge, the process described in Section IV.H.1 must be completed and resolved before the Patient may be granted the privileges as described above or discharged.

A Treatment Team is not required to make a referral for an IFRA if a Patient is being considered for

- supervised privileges inside the Facility or on the Facility grounds;
  - supervised medical visits off-grounds; or
  - other urgent situations that may arise (e.g., family funeral, etc.) that cannot be deferred for thirty (30) days to allow for an IFRA to be completed.
- c. Waiver of Subsequent IFRAs after an Initial IFRA. Upon completion of the initial IFRA, or any subsequent IFRA, the Senior Forensic Reviewer, on the recommendation of the Forensic Consultant, may waive the requirement for subsequent IFRAs. If subsequent IFRAs are waived, the Patient may be granted the privileges specified in Section IV.D.1.b, above, and/or be discharged without a subsequent IFRA. The waiver must be specified in the Forensic Consultant's IFRA report and the Senior Forensic Reviewer's comments.

**E. IFRA Referral Process.** The following process and timeframes shall apply to IFRA referrals.

1. **Making a Referral.** An IFRA referral is made to Forensic Services by the Patient's Treatment Team submitting an IFRA referral packet which shall consist of a completed IRA and if the referral is being requested more than thirty (30) Days after the completion of the IRA, a completed RAU. The Treatment Team may include any other information it determines is important.
2. **When the Referral Must be Made.** A referral for an IFRA must be made at least thirty (30) days before:
  - a. granting the Patient off-grounds privileges of any type;
  - b. granting the Patient unsupervised privileges of any type (either on or off-grounds) other than within a locked area of the facility; and
  - c. discharging the Patient from the Facility.

A referral shall not be made in these situations if a waiver has been granted pursuant to Section IV.D.1.c.

**3. Review of the Referral Package by Forensic Services.**

- a. A referral packet shall be considered complete when all appropriate sections of the IRA (and RAU, if applicable) are filled out, using information from all available records. Since the available medical records and the supporting documents should already be in the possession of the Treatment Team, it is expected that the referral packets will be complete upon submission.
- b. Within three (3) Business Days of receipt of an IFRA referral packet, Forensic Services will review it to determine if all necessary information is included and if the information is clear. If it is not, the IFRA Program Director, or designee, will notify the Treatment Team about any need for additional information.
- c. If the additional required information is not received by Forensic Services within twenty (20) additional Business Days, the IFRA Program Director, or designee, shall notify the Treatment Team that the IFRA referral is closed and that Treatment Team must resubmit the IRA and RAU, if applicable, to reactivate the referral.
- d. If the Treatment Team disagrees with the IFRA Program Director's determination that the referral packet is not complete, or if there is any other problem identified in the referral packet that cannot be resolved between the IFRA Program Director and the Treatment Team, the matter will be resolved promptly in accordance with Section IV.H.1.

**4. Determination that an IFRA Is Not Necessary.** The IFRA Program Director may determine that an IFRA is not necessary. In those instances, the IFRA Program Director, or designee, will notify the Treatment Team in writing of such decision and its basis within four (4) Business Days of receipt of the referral packet or all necessary information. The Treatment Team will incorporate the information regarding this decision and its basis in the Patient's medical record. If the Treatment Team disagrees with the IFRA Program Director's determination that an IFRA is not necessary, the matter will be resolved in accordance with Section IV.H.1.

**5. Assignment of a Forensic Consultant/Case Assignment Date.**

- a. Within four (4) Business Days of a determination that a referral is complete and an IFRA is necessary in accordance with IV.E.3., the IFRA Program Director, or designee, assign the case to a Forensic Consultant (case assignment date).
- b. Within four (4) Business Days of the case assignment date the Forensic Consultant must contact the Treatment Team to schedule an interview with the Patient. At least one mental health professional of the Patient's Treatment Team must attend the interview to ensure that information communicated by the Patient is directly transmitted to the Treatment Team to better address the treatment needs of the Patient.

**6. Forensic Consultant's Report.** The Forensic Consultant assigned to complete the IFRA must provide the Senior Forensic Reviewer with a written

report summarizing risk assessment and recommendations regarding risk mitigation within fifteen (15) Business Days of the case assignment date.

7. **Senior Forensic Review.** The Senior Forensic Reviewer must review the Forensic Consultant's report and provide written comments on the report within four (4) Business Days of receiving the report. The Forensic Consultant's report and the Senior Forensic Reviewer's comments will be submitted to the Treatment Team through the treating psychiatrist. Forensic Services will also notify the Facility Medical Director and the Area Medical Director of the completion of the IFRA.

**F. Review and Action upon Receipt of IFRA Report and Recommendations.**

As soon as practicable after receipt of the IFRA report and the comments of the Senior Forensic Reviewer, the Treatment Team must meet to review the report, the Senior Forensic Reviewer comments, and the recommendations. If the Treatment Team agrees with the IFRA recommendations, they will be reviewed with the Patient and incorporated into treatment planning.

**G. Elective Forensic Consultations**

1. A Treatment Team that has heightened risk concerns about a Patient who does not meet criteria in Section IV.D.1, may refer a Patient for an elective forensic consultation with the approval of the applicable Area Medical Director.
2. Referrals for an elective forensic consultation should be made at least thirty (30) days before the results of the consultation are needed (e.g.: granting of privileges or discharge). The referral should include a completed IRA (and RAU if applicable) and a concise statement of the reason for referral.
3. The IFRA Program Director may decline an elective referral. The IFRA Program Director, or designee, will notify the Treatment Team in writing of such decision and its basis within five (5) Business Days of receipt of the referral packet or all necessary information. The Treatment Team will incorporate the information regarding this decision and its basis in the Patient's medical record. If the Treatment Team disagrees with the IFRA Program Director's determination not to accept an elective referral, the matter will be resolved in accordance with Section IV.H.
4. The form and extent of an elective forensic consultation shall be determined by the IFRA Program Director in consultation with the Treatment Team.

**H. Disagreements Concerning Process or Recommendations**

1. If the Treatment Team disagrees with the IFRA recommendations or a decision by the IFRA Director that an IFRA is not necessary or that an Elective Forensic Consultation referral should be declined, the Treatment Team shall immediately consult with the Facility Director and the Facility

Medical Director to determine the most expeditious process for resolving the disagreement.

- a. Such process may include additional consultation with the Senior Forensic Reviewer and/or a clinical review/case conference to include the Patient's Treatment Team and the Facility clinical administration. When applicable to the disagreement, consideration should be given to including the Forensic Consultant who completed the IFRA in this consultation or clinical review process; otherwise, consideration should be given to including a representative with forensic experience as designated by the IFRA Program Director.
  - b. If the disagreement is not resolved by the process of consultation or clinical review, the case shall be referred to the applicable Area Medical Director and the Assistant Commissioner who shall, together, facilitate a resolution. This resolution shall be made with input from the Treatment Team.
2. During the IFRA process or Elective Forensic Consultation, the Treatment Team shall inform the Patient that peer and human rights supports are available to the Patient and shall work with the administrative staff of the Facility to ensure that these are provided, if desired by the Patient.

#### I. Critical Pathway for the IFRA Process

Facility Day/ Timing	Process Point
Facility Day 1-10*	Determination of need for Mandatory IFRA
Facility Day 1-30 ( <u>Mandatory</u> referrals only)	Completion of IRA
IFRA - Within 30 days of planned privilege change or discharge – referral to Forensic Services	<u>Mandatory Referrals</u> – if 30 days beyond completion of the IRA or previous RAU, completion of updated RAU
Within 4 Business Days of receiving a completed IRA and, if applicable, a completed RAU	Assignment to Forensic Consultant or notification to the Treatment Team by the IFRA Program Director, or designee, that the IFRA is not necessary (or if an elective forensic consultation, that the referral is not accepted)
Within 4 Business Days of receiving the case assignment	Forensic Consultant contacts the Treatment Team to schedule an interview with the Patient
Within 15 Business Days of case assignment to Forensic Consultant	Forensic Consultant's report sent to the Senior Reviewer
Within 4 Business Days of receiving the Forensic Consultant's report	Forensic Consultant's report and Senior Reviewer's comments sent to the Treatment Team



\* For patients whose legal status changes from a forensic evaluation to a treatment status, the determination of the needs for an IFRA should occur within seven (7) days of the change in legal status.

**J. Responsibilities of IFRA Program Director, Facility Medical Director, and Chief Operating Officer of a Facility**

- 1. IFRA Program Director.** The IFRA Program Director is responsible for:
  - a. Ensuring that the timeframes set forth in Section IV are adhered to by Forensic Services.
  - b. Overseeing the quality of completed Forensic Consultants' reports and the Senior Reviewer's comments.
  - c. Timely resolving disputes with the Area Medical Directors or referring matters to the Assistant Commissioner, if necessary.
- 2. Facility Medical Director.** The Facility Medical Director of a Facility is responsible for:
  - a. Ensuring the clinical quality of the IRAs and RAUs.
  - b. Ensuring that the Treatment Teams appropriately identify Patients who fall under this policy.
  - c. Facilitating clinical training of staff, in collaboration with Forensic Services, to maintain an awareness of current risk assessment practices in mental health services.
- 3. Chief Operating Officer of Facility.** The Chief Operating Officer of a Facility is responsible for:
  - a. Ensuring Facility staff timely identifies Patients who fall under this policy and complete IRAs and RAUs.
  - b. Ensuring Facility staff submits requests for IFRAs or elective forensic consults in a timely manner.
  - c. Working with Facility clinical leadership in overseeing the quality of the completed IRAs and RAUs.
  - d. Ensuring that at least one mental health professional who is a member of the Patient's Treatment Team attends the interview(s) of the Patient with the Forensic Consultant, and ensuring that peer and human rights support is available to the Patient regarding the risk assessment process.
  - e. Ensuring that Facility staff submits additional information as requested by Forensic Services.
  - f. Submitting disputes to the Area Medical Director and the IFRA Program Director in accordance with Sections IV.H.

**V. POLICY IMPLEMENTATION**

Area Medical Directors and the Assistant Commissioner are jointly responsible for implementing this policy.

Attachments as identified within this policy may be revised and re-issued, as needed, without reviewing and/or re-issuing this policy.

## **VI. REVIEW OF THIS POLICY**

This policy and its implementation shall be reviewed at least every three (3) years.