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Use of Telepsychiatry to Comply with 24/7 Provider Coverage/Designated Provider Requirements

These criteria apply to facilities holding full licenses from the Department of Mental Health (DMH) (including inpatient units of general hospitals) seeking authorization to utilize Telepsychiatry after normal business hours, and on weekends and holidays to comply with DMH requirements for 24/7 onsite physician, under full or limited licensure as defined by Massachusetts law, or a Qualified APRN coverage, the requirement for an in-person examination by a Designated Physician or Designated Psychiatric APRN within 2 hours of the patient's arrival at the facility, and/or, in limited circumstances, in lieu of an in-person examination by an Authorized Clinician¹ within one hour of initiation of restraint or seclusion provided that the episode of restraint or seclusion has fully resolved before one hour has elapsed.

Any request for such authorization shall be sent to the DMH Director of Licensing or designee and shall fully address the following criteria:

- 1) General Requirements for all Requests: All requests shall include:
 - a) Identification of the specific use for which authorization to utilize telepsychiatry is being sought.
 - b) Assurances that the hospital or unit is in compliance with, or has staffing levels that match or exceed the current DMH staffing standards of Nursing Care Hours Per Patient Day (NCHPPD), including:

i) Child Unit	8 NCHPPD
ii) Child/Adolescent Unit	7.5 NCHPPD
iii) Adolescent and Geriatric Unit	7 NCHPPD
iv) Adult Unit	6 NCHPPD
v) High Intensity Unit	8 NCHPPD
vi) IDD/ASD	8 NCHPPD
 - c) An attestation by the hospital Chief of Psychiatric Service or Medical Director or Chief Medical Officer that the processes outlined in its request have been reviewed by the applicable hospital medical staff, including adoption of applicable policies and procedures regarding staff roles in the event of medical emergencies as well as additional

¹ The terms Qualified APRN, Designated Physician, Designated Psychiatric APRN and Authorized Clinician are defined in DMH regulations at 104 CMR 27.00 and 104 CMR 33.00

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requirements for reporting medical emergencies and transfers to medical facilities. Such plans will require conventionally adequate response times for any emergency care and in no case greater than 15 minute access by EMTs. Additionally, that staff will receive applicable hospital trainings, including per diem staff, and documentation of this will be available to the Department when requested.

- d) Data describing:
 - i) the pattern of admissions per hour of the day and day of the week for the 6-month period prior to the request; and
 - ii) the pattern of restraints (including medication restraints) and seclusion per time of day, day of the week, and duration of episodes for the 6-month period prior to the request; provided however,
 - iii) if the facility has not been in operation for 6 months at the time of application, it shall supplement its request with 6 months of data prior to the granting of authorization for telepsychiatry.
- e) A description of the telepsychiatry system to be utilized, which the facility shall ensure meets current HIPAA security and privacy standards.
- f) A back-up plan for ensuring patient examination when the equipment is not functioning, which shall include provisions for an on-site examination.
- g) Copies of policies and procedures adopted by the facility to implement the requirements of this bulletin.

2) Requirements for Use of Telepsychiatry in Lieu of 24/7 Onsite Physician or Qualified APRN:

- a) A request for authorization for use of telepsychiatry in lieu of 24/7 onsite physician or Qualified APRN shall include:
 - i) a description and documentation that the facility has a formal process whereby a Nursing Supervisor is working in collaboration with a physician or Qualified APRN on call during the hours that the waiver is in effect.
 - ii) A required standard for response from the on-call physician or Qualified APRN within 10 minutes of being notified or paged by the facility, as well as provisions for back-up if the on-call physician or Qualified APRN does not respond within the required time.
 - iii) A description of the facility's plan for daily in-person physician or Qualified APRN rounding.
- b) In the event the issue requires a medical or psychiatric examination (except for admission examination), the physician or Qualified APRN on call may examine a patient by the approved telepsychiatry system or in person if the physician or Qualified APRN in his or her clinical judgment determines an in-person examination is indicated, or if the Nursing Supervisor in his or her clinical judgment requests the physician or Qualified APRN on call to arrive on site.

3) General Requirements for Use of Telepsychiatry for Examination by a Designated Physician or Designated Psychiatric APRN of Individuals who Present for Admission:

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- a) Any request to utilize telepsychiatry for examination by a Designated Physician or Designated Psychiatric APRN for purposes of admission shall ensure that all elements of the admission evaluation are completed and documented, including, in the case of a conditional voluntary admission, a physician or Designated Psychiatric APRN's assessment of the patient's capacity to understand the conditional voluntary process and form.
- b) The request must also include a description of the system or process under which the required assessments will be conducted. This shall include:
 - i) an approved telepsychiatry model, as described below.
 - ii) assurance that a clinician approved by the hospital's medical staff, Chief of Psychiatric Services, Medical Director, or Chief Medical Officer to make a mental health diagnosis, is on-site and present in the room with the patient who being evaluated.
 - iii) the names of the professionals participating in the process will be documented in the patient's chart as part of the admission note.
 - iv) assurances that the Designated Physician or Designated Psychiatric APRN shall accept responsibility for the admission assessment and, if the admission is approved, shall be responsible for the patient until such time as the patient's care is transferred to an attending provider.
- c) Assurances by the facility (such as through medical staff policies or hospital specific policies) that a clinician meeting the Designated Physician or Designated Psychiatric APRN requirements of 104 CMR 33.03(1) will be available on a 24 hour/seven day a week basis to participate in the §12(b) psychiatric examination process and admission decision via an approved telepsychiatry system.
- d) Assurances that any patient admitted involuntarily under §12(b) or who is determined to be competent to be admitted under conditional voluntary status after an assessment conducted via telepsychiatry will be examined in person by a provider as soon as possible on the next calendar day following the admission.
- e) An attestation by the facility's Chief of Psychiatric Services or Medical Director or Chief Medical Officer that the on-site clinical staff is competent in the relevant clinical areas to perform psychiatric assessments and make admission determinations pursuant to M.G.L.c. 123 s. 12(b) or §§10&11. Areas of competence shall include:

Criteria for Involuntary Hospitalization

- Assessment of Suicidal Risk
- Assessment of Dangerousness toward others
- Assessment of Inability to Care for Self

Psychiatric/Medical Examination

- Psychiatric History
- Mental Status Exam
- Medical/Psychiatric Interface
- Psychiatric Assessment/Plan
- Emergency Treatment/Orders

Other

- Alternatives to Hospitalization/Follow-up Care
 - Communication/Coordination with Other Providers/Patient Supports
 - Medicolegal Elements Related to Commitment, Conditional Voluntary Admission including:
 - Capacity to sign in on a conditional voluntary
 - Validity of a Health Care Proxy
- 4) Requirements for use of telepsychiatry to Conduct Examinations of Patients Within One Hour of Initiation of Restraint or Seclusion.
- a) DMH regulations permit initiation of a medication restraint, mechanical or physical restraint or seclusion prior to examination by an Authorized Clinician in limited circumstances. *See:* 104 CMR 27.12(8)(d) (medication restraints) and 104 CMR 27.12(8)(e)(2) (mechanical and physical restraints; seclusion). In such cases, the regulations require an examination by an Authorized Clinician within one hour of the initiation of the restraint or seclusion.
 - b) Compliance with the requirement of examination of a patient by an Authorized Clinician within one hour of the initiation of restraint or seclusion via telepsychiatry may be approved by DMH in the following circumstances:
 - i) In the case of a patient who has received a medication restraint pursuant to a telephone order issued in accordance with 104 CMR 27.12(8)(d), a physician, registered nurse, or certified physician assistant has assessed the patient and determined that:
 - (1) the medication restraint has taken effect and the patient is not in need of further restraint;
 - (2) the patient has not experienced side effects of the medication restraint; and
 - (3) there are no apparent medical or physical conditions related to the medication restraint that require an in-person examination.
 - ii) In the case of a patient placed in mechanical restraints, seclusion or who was subject to a physical restraint, that the restraint or seclusion episode has ended and the patient has been permanently released from restraint or seclusion before one hour has elapsed in accordance with 104 CMR 27.12(h)(8).
- 5) Requirements for Performing Clinical Examinations via Telepsychiatry Pursuant to an Approved Request.
- a) The use of telepsychiatry for the purpose of conducting clinical examinations (e.g., admission; medication adjustments) is permissible provided that policies are developed and implemented that ensure that:

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- i) for admission examinations, the physician or Qualified APRN performing the off-site telepsychiatry examination is credentialed and privileged to admit to the receiving facility, as a Designated Physician or Designated APRN in accordance with DMH regulations.
 - ii) the patient being examined by the off-site Designated Physician or Qualified APRN will have in-room accompaniment by at least one clinician approved by the hospital's medical staff, Chief of Psychiatric Services, Medical Director, or Chief Medical Officer to make a mental health diagnosis.
 - iii) the two-way audio and visual transmission capacity shall be of sufficient quality to permit an accurate examination by the Designated Physician or Qualified APRN and to permit the patient and in-room clinician full opportunity for communication with the off-site physician or Qualified APRN.
 - iv) the off-site physician or Qualified APRN and in-room staff shall be trained in the use of the equipment and in any special considerations necessary for performing an examination from off-site.
 - v) the telepsychiatry equipment is adequately maintained and there is a back-up plan for ensuring patient examination when the equipment is not functioning or when a patient refuses to be examined via telepsychiatry, which shall include provisions for an on-site examination consistent with DMH regulations.
 - vi) the off-site physician or Qualified APRN and the in-room clinician have immediate access to interactive audio, video or other electronic media for the purpose of communicating and sharing of information related to diagnosis, consultation or treatment.
 - vii) patient confidentiality shall be maintained in accordance with HIPAA and state privacy laws and regulations.
 - viii) if the patient is admitted, he or she will remain the responsibility of the off-site physician or Qualified APRN performing the examination until such time as the responsibility is documented to have been transferred to another physician or Qualified APRN.
 - ix) all requirements set forth in statute and regulation will be met regarding admission procedures, assessments, notices to the patient, document processing, etc. as for any admission.
- 6) Data Analysis: Facilities utilizing telepsychiatry pursuant to this bulletin shall maintain a list of patients examined by telepsychiatry, including the date and time of the examination and the purpose and results of the examination (e.g., whether the patient was admitted and under what legal status; the medical issue addressed), and shall perform internal quality assessment of the use of telepsychiatry in order to demonstrate the effect upon:
- a) access to care (e.g. rate of admissions across shifts; timely resolution of medical issues);
 - b) wait time for patients;
 - c) accuracy of patient assessment for the need for hospitalization; and

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- d) ability for in-person examinations to be performed if patients refuse telepsychiatry evaluation or if there are technical difficulties.
- e) rates of restraint and seclusion compared to time periods prior to implementation of telepsychiatry, including time of day, day of the week, and duration of episodes.

This data shall be provided to the Department quarterly in a form or format prescribed by the Department and must otherwise be made available to the Department upon request.

7) DMH Action on Request to Use Telepsychiatry:

- a) A request to utilize telepsychiatry pursuant to this bulletin may be denied or revoked for good cause at the discretion of the Director of Licensing or designee. Good cause may include but is not limited to, a facility placed under a corrective action plan concerning staffing levels or the provision of medical or psychiatric care.
- b) A facility will not be granted authorization to use telepsychiatry until it has received a full DMH license and has been operating for a period of 6 months.
- c) A facility's authorization to use telepsychiatry, if approved, shall thereafter be reviewable by the Department in the facility's bi-annual licensing renewal process, or at such other interval as determined by the Licensing Division.