

<b>Title: Searches at DMH Inpatient Facilities and IRTPs</b>	<b>Policy #: 19-01</b> <b>Date Issued: October 15, 2019</b> <b>Effective Date: October 15, 2019</b>
<b>Approval by Commissioner:</b>	
<b>Signature: Brooke Doyle, M.Ed., LMHC</b>	<b>Last Reviewed: January 28, 2021</b>

**I. PURPOSE**

This policy reinforces DMH’s commitment to the safety of patients, staff and visitors at DMH Inpatient Facilities by reaffirming that all such Facilities are free of drugs, alcohol, tobacco, weapons and other items that are illegal or potentially harmful. The policy establishes standards for searches and inspections at DMH operated or contracted inpatient units or Intensive Residential Treatment Programs (IRTPs), including patients, patient rooms and possessions, common areas, visitors and their possessions.

It is the policy of the Department that all searches shall be reasonably related to the objective of protecting the health and safety of patients, staff and visitors, while at the same time respecting the importance of the privacy and dignity of the individual who is subject to a search and:

- Respect the person’s unique history, culture, gender, religious and linguistic needs;
- Minimize the potential for traumatizing or re-traumatizing the person, especially when the person has a history of physical or sexual abuse;
- Show respect for the person’s possessions (for example: returning the person’s possessions to the same place and in the same condition they were in prior to the search);
- Respect the person’s need for modesty and privacy.

This policy defines Contraband and Conditionally Allowed Items.

This policy replaces and repeals DMH Policy #98-3.

## II. SCOPE

This policy is applicable to all DMH Inpatient Facilities. Intensive Residential Treatment Programs are required to follow this policy except where indicated.

## III. DEFINITIONS

**Conditionally Allowed Items:** Patient possessions, other than Contraband, that may pose a level of risk, but that are nonetheless permitted on the unit, subject to the exercise of clinical judgment related to the individual possessing the item and reasonable restrictions to ensure safety of patients, staff and visitors on the unit. See Attachments.

**Contraband:** Any substance or article that is illegal or that is likely to cause harm and has been determined to be prohibited from the Facility at all times. See Attachments. Some items classified as Contraband may be used as determined to be clinically appropriate and under appropriate supervision.

**Facility:** A DMH operated or contracted inpatient Facility or unit, including all DMH operated inpatient units at a Department of Public Health Hospital and all Intensive Residential Treatment Programs.

**Facility Director:** The superintendent, chief executive officer, program director, or other administrator designated by the Facility to have administrative oversight of a Facility, or designee.

**Invasive Body Search:** A body search that involves a search of the patient's body cavities or orifices.

**Metal Detection Scan:** A search by means of using a metal detection device, such as a wand, to scan a person or their possessions for the presence of Contraband and/or Conditionally Allowed Items.

**Minimum Contact Body Search:** A search which requires the patient to remove part or all of their clothing in order to visually check for Contraband and/or Conditionally Allowed Items, but the patient's body cavities or orifices are not searched.

**Pat Search:** A search that involves the patting of the outside of a person's clothing and which may require the patient to remove outer clothing such as jackets, sweatshirts or footwear; empty pockets, hoods or other bulky parts of clothing; or visual inspection of a person's hair (requesting that the person remove any items in the hair and allow it to hang free), where Contraband and/or Conditionally Allowed Items could be stored.

**Reasonable Cause:** A combination of facts and circumstances that would warrant a reasonable person to believe that someone is holding or hiding Contraband, Conditionally Allowed Items not approved for the person's possession or other potentially harmful items on his or her person or in his or her possession. Reasonable Cause exists if the staff member authorized to approve the search believes it is more likely than not that the person is in possession of such items. Reasonable Cause cannot be merely an opinion or hunch. The authorized staff member must consider all known relevant facts and circumstances.

**Sexually Illicit Materials:** All unlawful or illegal sexual materials.

**Sharp:** An item that is intended to be used to cut/puncture. See Attachments.

**Weapon:** An item intended to cause bodily harm such as firearms, knives, mace, or other similar items. See Attachments.

#### **IV. CONTRABAND ITEMS AND CONDITIONALLY ALLOWED ITEMS**

##### **A. Contraband Items**

Except for items that are hospital issued, patients may not possess Contraband at any time within, or upon the grounds of, the Facility. Visitors are prohibited from bringing any item of Contraband into the Facility, but may wear items of clothing that are otherwise classified as Contraband, such as nylon stockings or steel toe boots.

##### **B. Conditionally Allowed Items**

###### **1. Use and Restrictions**

A patient shall be permitted to possess and use Conditionally Allowed Items in the Facility, subject to the exercise of clinical judgment related to the individual possessing the item, and to reasonable restrictions to ensure safety of patients, staff and visitors on the unit. When a clinical determination has been made regarding the use of a Conditionally Allowed Item(s), at the time of such determination, the Facility shall document the decision and any restrictions (e.g., never allowed, only allowed while supervised) in the patient's medical record.

###### **2. Clinical Determinations**

Nothing in this Policy shall prohibit a treatment team from determining that a particular item not listed as a Conditionally Allowed Item is clinically contraindicated for possession by a particular patient, and from conducting searches for such items in accordance with this policy. Any such determination shall be included in the patient's medical record.

## **C. Attachments**

### **1. List**

A list of Contraband and Conditionally Allowed Items is included with this policy as Attachment A for Facilities and Attachment B for IRTPs.

### **2. Notification and Posting**

A copy of Attachment A shall be provided to the patient upon admission and to visitors upon request. Each Facility shall post a copy of Attachment A at its main entrance to the Facility/Unit.

### **3. Process to Add Items to Attachments A & B**

If a Facility determines that a particular item not included in Attachment A should be classified as Contraband or a Conditionally Allowed Item, it may prohibit possession of the item as Contraband or restrict possession of the item as a Conditionally Allowed Item until a determination is made whether the item should be added to Attachment A.

The DMH Statewide Director of the Office of Inpatient Management (OIM) or designee shall be notified when a Facility wants to add such item to Attachment A. Upon receiving notice of a prohibited or restricted item, the OIM shall then make a final determination, in consultation with the DMH Chief of Staff and Facility Chief Operating Officers and Directors of Nursing, as to whether such item should be permanently added to Attachment A.

Any deviation from Attachment B by an IRTP must be reviewed and approved by the DMH Child, Youth, and Family Director of System Transformation and, if co-located within a DMH Facility, with the Facility Chief Operating Officer.

## **V. GENERAL REQUIREMENTS FOR ALL FACILITY SEARCHES**

### **A. Facility Procedures**

Each Facility shall establish procedures for screening and search of patients, visitors, personal belongings, patient rooms and other areas consistent with this policy. The Facility's procedures shall clearly define the types of searches that are permitted and the role of all personnel, which may include clinical, administrative, and security personnel, DMH staff or otherwise, in authorizing and conducting searches.

## **B. Signage**

Each Facility shall display prominent signage at each entrance and lobby area informing all individuals that possession of drugs, alcohol, weapons and potentially dangerous materials with the Facility or grounds is prohibited and subject to seizure, and that individuals and their possessions may be subject to search.

## **C. Notification of Rights and Responsibilities**

The Facility shall ensure that patients are informed of their rights and responsibilities with respect to searches. This information should be included in the handout describing patient's human rights that is given to patients at the time of admission.

## **D. Least Intrusive**

A search must be no more intrusive than necessary to protect the health and safety of patients, staff and visitors. To the extent practical, less intrusive search procedures that could be used to detect Contraband and/or Conditionally Allowed Items must be used before more intrusive procedures. In addition, search procedures must be limited in scope to achieve the specific purpose of the search.

## **E. Training**

The OIM, in collaboration with the DMH Office of Learning and Development, shall develop and maintain a training curriculum to implement requirements of this policy. Staff who have responsibilities pursuant to this policy must complete the required training curriculum on an annual basis.

# **VI. PATIENT SEARCHES**

Each Facility shall have procedures that provide for searches of patients. These may include routine searches that apply in certain situations, as well as searches based on an individualized reasonable cause determination that the patient is in possession of Contraband and/or Conditionally Allowed Items, the possession of which has not been approved for the patient.

## **A. Routine Searches**

It is standard practice at Facilities to conduct routine searches of patients and their belongings upon admission or when returning from an unsupervised pass or privileges or unauthorized absence. These searches may include Metal Detection Scans and/or Pat Searches. Reasonable Cause is not required for these searches; they

may be conducted as a matter of course to ensure patient safety and to prevent Contraband and/or unapproved Conditionally Allowed Items in patient areas.

## **B. Searches Requiring Reasonable Cause**

In addition to routine searches, Facilities may conduct searches at other times when, as described below, there is Reasonable Cause to believe that the patient is in possession of Contraband and/or unapproved Conditionally Allowed Items.

A Facility's procedures authorizing patient searches based on Reasonable Cause shall include the following:

- Authorization: Designation of the appropriate person(s) to authorize the search.
- Reasonable Cause: The person authorizing the search must determine, prior to the search, that there is Reasonable Cause to believe that the patient is in possession of Contraband and/or unapproved Conditionally Allowed Items.
- Involvement of the Patient: Although a Facility does not need a patient's consent to conduct a search, every effort shall be made to inform the patient of the reasons for the search and obtain the patient's cooperation. Prior to the search, the patient shall be: (1) told why the search is being conducted; (2) given the opportunity to surrender the suspected Contraband and/or unapproved Conditionally Allowed Items or explain that such item is not in their possession (a search may occur if reasonable cause still exists); and (3) given the opportunity to consent to the search. The patient shall also be given the opportunity to be present during a search of their property. If a search needs to be conducted in an emergency, when the patient is not present during the search, the patient shall be informed as soon as possible about the search. In addition, the nature of the emergency and the reason(s) the patient was not present during the search shall be documented in the patient's medical record.
- Notice to Human Rights Officer: The Human Rights Officer shall be notified of the search. Whenever possible, this notification shall occur prior to the search. The Human Rights Officer may be present during the search if requested by the patient, unless the search must be conducted immediately for safety reasons or after hours when the HRO is not present.
- Additional Procedures and Documentation: Within a reasonable time after a search, Facility staff must debrief the search with the patient. The person who authorized the search must ensure that the reason(s) for and the results of the search are documented in the patient's medical record. If found, Contraband and/or unapproved Conditionally Allowed Items are to be reported via the Hospital Incident/Event reporting form.
- Any comments or reactions elicited from the patient must be documented as well.
- The need for repeated non-routine searches of a patient shall be addressed as a treatment planning issue with the patient.

## **C. Reasonable Cause Searches May Involve the Following:**

### **1. Metal Detection Scan**

A Metal Detection Scan involves the use of a metal detection device, such as a wand, to scan a person or their possessions for the presence of Contraband and/or unapproved Conditionally Allowed Items. Metal Detection Scans shall be conducted by authorized staff.

### **2. Pat Searches**

A patient may be subject to a Pat Search and related search of personal belongings (such as inspection of the patient's jacket, purse or bags). A Pat Search involves the patting of the outside of a person's clothing and may require the patient to remove outer clothing such as jackets, sweatshirts or footwear; empty pockets, hoods or other bulky parts of clothing; or visual inspection of a person's hair (requesting that the person remove any items in the hair and allow it to hang free) where Contraband and/or unapproved Conditionally Allowed Items could be stored. A Pat search does not allow for reaching into the person's clothing. Pat searches shall be conducted by direct care staff or security staff of the preferred gender of the patient to the extent practicable.

### **3. Minimum Contact Body Search**

A Minimum Contact Body Search requires the patient to remove part or all of their clothing in order to visually check for Contraband and/or unapproved Conditionally Allowed Items. Only the minimum amount of contact is to be used to ensure that no Contraband and/or unapproved Conditionally Allowed Items are hidden on the patient's body (such as in the hair or under the arm).

- Only a physician may authorize a Minimum Contact Body Search, the order for which must be documented in the patient's medical record. In making this determination the physician must consult with appropriate nursing and other staff.
- The physician authorizing the search must determine, prior to the search, that there is Reasonable Cause to believe that (1) the patient is in possession of a Contraband and/or unapproved Conditionally Allowed Items; and that (2) no less invasive search or procedure such as having the patient turn out pockets, a Pat Search, or a Metal Detection Scan can be used to locate the Contraband and/or unapproved Conditionally Allowed Items.
- A Minimum Contact Body Search must be conducted in private and in the presence of two staff members, one of whom must be a registered nurse. In addition, if possible and appropriate, the staff members must be of the gender requested by the patient.

#### **4. Invasive Body Search**

A search that may include all of the features of a Minimum Contact Body Search, with the addition of a search of the patient's body cavities or orifices.

- Only a physician may authorize an Invasive Body Search, the order for which must be documented in the patient's medical record. Before issuing the order, the physician shall consult with appropriate nursing, and other staff and further shall consult with the Facility Director, Facility Medical Director and Director of Nursing, if available. If none of them are available, the physician shall consult with the Facility's Administrator On Call. In addition, prior to issuing the order, the physician shall consult with the Human Rights Officer, if available. The physician retains the final authority to issue the order.
- The physician authorizing the Invasive Body Search must determine, prior to the search, that there is Reasonable Cause to believe that Contraband and/or Conditionally Allowed Items are in the patient's body cavity, that an Invasive Body Search is necessary to protect the patient or others from serious harm, and that there is no less invasive search or procedure that may be used to locate the Contraband and/or unapproved Conditionally Allowed Items.
- An Invasive Body Search shall only be conducted:
  - in private, in a safe and appropriate setting;
  - by a physician, nurse practitioner or physician's assistant who is appropriately privileged by the Facility and of the preferred gender of the patient unless there is a compelling clinical contraindication for this choice;
  - in the presence of a second staff person (and, when possible and appropriate, any additional person the patient requests);
  - if necessary, by taking the patient to an appropriate health care Facility for the search.

#### **5. Patient Rooms and Other Areas with Patient Possessions**

The Facility may conduct Reasonable Cause searches of patient rooms, individual storage spaces, and other areas where patient's personal possessions are authorized to be stored.



## **VII. SEARCHES OF UNITS AND COMMON AREAS**

### **A. Unit Searches**

The Facility may have procedures that provide for full unit searches, including patient rooms and common areas, in instances where an event occurs, or series of events occur, which results in or may potentially result in a harmful situation or that creates Reasonable Cause to believe that Contraband is on the unit. Reasonable Cause need not be specific to each patient room if the potential harm relates to the unit as a whole. Unit searches shall be authorized by the Facility Director or designee. Prior to initiating the search, and to extent possible given the circumstances, every effort shall be made to inform patients about the reasons for the unit search and obtain the patients' cooperation. Absent a compelling reason, each patient shall be given the opportunity to be present during the search of their room and possessions. The Human Rights Officer shall be notified of a Unit search and whenever possible, notification shall occur prior to the search, so the Human Rights Officer may be present.

### **B. Common Areas**

The Facility may conduct scheduled and unscheduled searches of common areas in which there is no storage of individual patient possessions. Reasonable Cause is not needed for common area searches.

## **VIII. VISITORS**

Facilities must have procedures to screen or search persons entering the Facility, consistent with the following:

- Visitors are required to sign-in and provide identification before entering the Facility unit. A Facility's procedures shall address when a visitor may be permitted on the unit without identification.
- Visitors are prohibited from bringing any item of Contraband into the Facility, but may wear items of clothing that are otherwise classified as Contraband, such as nylon stockings, steel toe boots.
- Conditionally Allowed Items are permitted on the unit if authorized by the Facility.
- While cell phones are permitted in accordance with DMH Policy #12-01, visitors may not use their cell phone to photograph or record any persons on the unit or otherwise use such phone in common areas of the Facility.
- Subject to inspection, visitors may bring personal belongings onto the unit including outer clothing, such as jackets or coats. If lockers are available, visitors may be permitted to use them to secure their personal belongings, including outer clothing such as jackets and coats.

- Staff must inspect anything brought into the unit. If a visitor refuses an inspection of any items they intend to bring on the unit, the visitor may be prohibited from bringing the property into the unit, the visitor may be asked to leave, or staff may monitor the visit.
- Visitors shall be subject to a Metal Detection Scan, where such scans exist, and may be asked to empty pockets. If a visitor refuses such requests, staff may ask the visitor to leave or staff may monitor the visit.
- Visitors may not be asked to submit to a Pat Search, Minimum Contact Body Search or Invasive Body Search.

## **IX. DISPOSITION OF CONTRABAND AND CONDITIONALLY ALLOWED ITEMS**

The Facility shall have procedures for disposing of or returning Contraband and unapproved Conditionally Allowed Items confiscated during a search. They shall include specific instructions regarding the safe and proper disposition of illegal items. The procedures shall provide for documentation of the confiscation, storage and/or proper disposition of any Contraband and unapproved Conditionally Allowed Items, and access to this documentation by the person from whom the Contraband and/or unapproved Conditionally Allowed Items was confiscated, or by the person's legally authorized representative.

## **X. IMPLEMENTATION RESPONSIBILITIES**

Implementation of this policy shall be the responsibility of the OIM in collaboration with each DMH Inpatient Facility Director and the DMH Division of Children, Youth, and Families.

## **XI. REVIEW**

This policy, including Attachments, shall be reviewed not less than annually.

## **XII. ATTACHMENTS**

Attachment A: List of Contraband and Conditionally Allowed Items  
Attachment B: IRTTP List of Contraband and Conditionally Allowed Items