

TITLE 3: HUMAN RESOURCES
DIVISION 2: HEALTH

§ 2501. Definitions.

As used in this chapter:

(a) "Assessment" means the determination of whether a person shall be given an evaluation for treatment as mentally ill.

(b) "Attending physician" means a duly authorized licensed medical practitioner, including a psychiatrist, medical doctor, medical officer and doctor of osteopathy.

(c) "Aversive stimuli" means anything which, because it is believed to be unpleasant, uncomfortable or distasteful to the patient, is administered or done to the person for the purpose of changing a behavior.

(d) "Chemical restraint" means restriction, through the use of drugs and medication, of the limbs, head or body of an individual except as part of a bona fide medically prescribed procedure for treatment of a physical disorder, such as anesthesia for surgery.

(e) "Competency" refers to an individual's ability to understand specific facts and to make decisions or take action considering those facts. Competency is a situational concept. An individual may be, at the same time, competent in one area and not competent in another.

(f) "Conditional release" means the release from an evaluation or treatment facility with a requirement for involuntary outpatient care, home services or other involuntary but less restrictive alternatives.

(g) "Consistent with the least restrictive alternative principle" means that the mental health treatment and conditions of treatment for the person, separately and in combination, are:

(i) No more harsh, hazardous or intrusive than necessary to achieve acceptable treatment objectives for such person; and

(ii) Involve no restrictions on physical movement nor supervised residence or in-patient care except as reasonably necessary for the administration of treatment or for the protection of the mentally ill individual or others from physical injury.

(h) "Danger to self or others" means imminent and substantial danger to self or other persons evidenced by recent overt acts, attempts or threats. It includes attempting to commit suicide or inflict serious bodily harm upon self or others by violent or other actively self-destructive means.

(i) "Day(s)" means calendar day(s).

(j) "Department" means the Department of Public Health and Environmental Services.

(k) "Director" means the Director of the Department of Public Health and Environmental Services.

(l) "Evaluation" means the process by which a person's mental illness is studied to formulate a diagnosis of the illness, determine its nature, intensity and scope, to consider what is appropriate treatment, to formulate a prognosis and to consider other appropriate matters.

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(m) “Evaluation facility” means a mental health facility designated by the director as suitable for the evaluation, housing, and treatment of the mentally ill; provided, that no correctional institution, facility, or jail shall be, or be used as, an evaluation facility, except in the case of persons otherwise properly detained therein.

(n) “Gravely disabled” means the condition by which a person is mentally ill, and, without treatment, faces an imminent and substantial risk of serious physical impairment or injury to himself because his mental illness causes inability to use the elements of life which are essential to health or safety, including food, clothing and shelter, even if provided to the person by others. In order to find a person gravely disabled, the following conditions must also be met: prompt and adequate treatment must be available, the mental illness must significantly impair the person’s ability to understand information about the illness, and a reasonable person would consent to treatment under the same circumstances.

(o) “He” or “she” shall be used interchangeably in this article. Use of one pronoun shall imply substitution of the other gender to conform to actual facts.

(p) “Individualized discharge plan” means a plan developed by the mental health providers with cooperation from appropriate individuals, agencies and family members of the mentally ill person to assist the committed person to adjust to a non-institutional setting upon discharge. The individualized discharge plan should include at least:

- (1) A description of shelter needs and arrangements to meet needs;
- (2) A description of transportation needs and arrangements to meet those needs;
- (3) A description of on-going medical and psychiatric care needed and arrangements to meet those needs;
- (4) A description of financial needs and a plan to meet those needs; and
- (5) A description of nutritional, educational, employment, social and other basic needs and a plan to meet those needs.

(q) “Individualized treatment plan” means a plan for treatment developed by mental health providers with cooperation from appropriate individuals, agencies and family members of the mentally ill person. The individualized treatment plan should include at least:

- (1) A statement of the specific problems, medical and psychiatric diagnoses and prognosis, and needs;
- (2) A brief description of the nature and effects of services and treatment already administered to the person;
- (3) A description of services and treatment to be administered, their possible side effects, and feasible alternatives, if any;
- (4) The identities of agencies and individuals who will in the future provide services and treatment;
- (5) The settings in which the services and treatment will be provided;
- (6) A timetable for attaining the goals or benefits of treatment or care to be administered; and

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(7) A statement of the criteria for transition to less restrictive placements or for conditional or unconditional release or discharge from involuntary mental health services and treatment, as well as the anticipated date for transfer or discharge and for discharge planning.

(r) "Inpatient treatment" means diagnosis, evaluation, care, treatment or rehabilitation rendered inside or on the premises of a mental health facility, hospital, clinic, institution, or supervised residence or nursing home when the individual resides on the premises and his presence is required during normal business hours.

(s) "Judicial day(s)" means a day (or days) Monday through Friday, not including legal holidays.

(t) "Lack of capacity to consent to treatment" means the person's inability, by reason of mental illness, to achieve a rudimentary understanding after conscientious efforts at explanation, of the purpose, nature or possible significant benefits of treatment and risks involved. Lack of capacity to consent to treatment is a specific type of incompetency. The facts of refusal to consent to treatment and disagreement with mental health professionals about the course of treatment acceptable to the patient shall not be considered as evidence to prove lack of capacity to consent to treatment.

(u) "Mental health professional" means a qualified, trained, and licensed member of the mental health staff of an evaluation or treatment facility.

(v) "Mental illness," or "mental illness, disease or defect" means any severe, substantial mental impairment or disorder, irrespective of cause.

(w) "Patient's rights" means the rights afforded to all patients while in the care, custody or control of an evaluation or treatment facility, and any other rights provided by law including, but not necessarily limited to, the following:

- (1) The right to prompt and adequate treatment by qualified mental professionals;
- (2) Medication rights;
- (3) The right to informed consent for and refusal of treatment, unless the patient lacks the capacity to consent to treatment;
- (4) Freedom from and informed consent to surgery, shock therapy, aversive stimuli and other unusual or hazardous treatment procedure rights;
- (5) Access to records and confidentiality rights.

(x) "Peace officer" means a duly commissioned law enforcement officer of the Commonwealth.

(y) "Physical restraint" means direct restriction through mechanical means or personal physical force of the limbs, head or body of an individual, except as part of a bona fide medically prescribed procedure for the treatment of an existing physical disorder, such as the use of traction for a back injury.

(z) "Prompt and adequate treatment" means a course of treatment competently designed and administered to maximize the recovery of mental health or associated behaviors within the shortest practicable time consistent with sound professional judgment as to the desirability and efficacy of using less restrictive

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alternatives. It also includes a course of treatment competently designed and administered to prevent loss of function, behavior and skills.

(aa) “Treatment” means any effort to accomplish any significant change in the physical, mental or emotional condition or behavior of the patient or to prevent loss of function, behavior and skills and includes developing individualized treatment plans and individualized discharge plans.

(bb) “Treatment facility” means any mental health care facility that is licensed or operated by the Commonwealth to provide treatment pursuant to law; provided, that no correctional institution, facility or jail shall be, or be used as, a treatment facility except in the cases of persons otherwise properly detained therein.

(cc) “Unconditional release” means the release from an evaluation or treatment facility without requiring involuntary out-patient care, supervision, or other involuntary conditions.

Source: PL 8-36, § 3, modified.

Commission Comment: PL 8-36, the “Involuntary Civil Commitment Act of 1993,” took effect January 7, 1994. PL 8-36, § 25 repealed former title 3, division 2, chapter 5 (3 CMC §§ 2511-2539), which included two articles concerning diagnosis of mental illness and commitment of mentally ill persons to treatment facilities. According to PL 8-36, § 2:

Section 2. Purpose. The legislature finds that there are some persons in the CNMI who are mentally ill individuals. Because of their illness, these individuals need special consideration to protect them, assure their rights, and enable them to benefit from therapy and treatment. It is the purpose of this legislation to provide procedures that will help mentally ill persons get evaluated and treated, and balance the mentally ill person’s constitutional and statutory rights to liberty and due process with the public safety and good. This Act establishes procedures for 72-hour emergency detention and evaluation without court hearing, and for emergency and non-emergency involuntary civil commitment after a court hearing for specified periods of time.

Legislative history indicates that the definitions in 3 CMC § 2501 were intended to apply in article 2 of this chapter (PL 8-38, the Patient’s Rights Act, codified at 3 CMC § 2551 et seq.) as well as in this article. Accordingly, the Commission inserted the phrase “[a]s used in this chapter:” at the beginning of this section.

For provisions concerning involuntary criminal commitment, see 6 CMC § 6601 et seq.

With respect to the reference to the “Director of Public Health and Environmental Services” and the “Department of Public Health and Environmental Services,” see Executive Order 94-3 (effective August 23, 1994), reorganizing the executive branch, changing agency names and official titles, and effecting other changes, set forth in the Commission comment to 1 CMC § 2001.