



Team Name: Regional Acute Care Team Team Lead: Regional Director, Acute Care Approved by: Executive Director – Acute & Chief Nursing Officer	Reference Number: CLI.5110.PL.008 Program Area: Critical Care (ER, Observation, CSU) Policy Section: General
Issue Date: June 25, 2018 Review Date: Revision Date: June 29, 2020	Subject: Transfer of Custody of an Apprehended Involuntary Patient under the Mental Health Act from Law Enforcement/Peace Officer

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POLICY SUBJECT:

Transfer of custody of an apprehended involuntary patient under the Mental Health Act (MHA) from Law Enforcement/Peace Officer.

PURPOSE:

To enact the amendment to the Mental Health Act (MHA) that enables Law Enforcement/Peace Officer to transfer the custody of an Apprehended Involuntary Patient under the Mental Health Act from Law Enforcement/Peace Officer to a Qualified Person at one of the three Regional Centres (Bethesda Regional Health Centre, Boundary Trails Health Centre, Portage District General Hospital) when specific criteria are met.

To assist Emergency Department (ED) staff to determine as soon as possible the level of supervision required for patients detained involuntarily under the Mental Health Act and accompanied to the ED by Law Enforcement/Peace Officers. The level of supervision determines the need for ongoing Law Enforcement/Peace Officer presence or their release.

To expedite the release of Law Enforcement/Peace Officer from the ED, to return to their regular duties.

To maintain a record related to ongoing reassessment of the level of supervision required for involuntary Mental Health Patients (MHP) who remain in custody of Law Enforcement/Peace Officer in the ED.

BOARD POLICY REFERENCE:

Executive Limitation (EL - 01) Global Executive Restraint & Risk Management
 Executive Limitation (EL - 02) Treatment of Clients

POLICY:

Law Enforcement/Peace Officers are no longer required to remain with all individuals apprehended under the authority of the MHA. Once specified criteria are met, individuals apprehended under the authority of the MHA can be released into the custody of a Qualified Person.

DEFINITIONS:

Law Enforcement/Peace Officer – An Officer employed with the Royal Canadian Mounted Police (RCMP) or other policing organization.

Qualified Person – a staff person in a position that has been designated by regulation under the MHA, or who has received the training specified by regulation under the MHA to receive transfer of custody of patients brought in by Law Enforcement/Peace Officer for involuntary medical examination or psychiatric assessment.

- Minimum Training Requirements consist of (1) Mental Health First Aid, (2) Violence Prevention Program, and (3) De-escalation and Patient Safety Training provided by Law Enforcement.

Mental Health Patient (MHP)– An Individual who is experiencing symptoms or behavior that may be related to a mental health disorder deemed by a Physician, Psychiatrist, Community Mental Health Worker, Psychiatric Nurse or Nurse Practitioner, or Law Enforcement/Peace Officer.

Involuntary Patient – Any non-consenting patient detained under the MHA (formed patient under the MHA) and presenting to the ED for medical or psychiatric evaluation or treatment.

Formed Patient - Any patient placed on a Form under the MHA.

- **Form 2** – An order signed by a Magistrate for involuntary medical examination under the MHA (section 11).
- **Form 3** – Under the MHA (Section 12), the Law Enforcement/Peace Officers power to take into custody for the purpose of medical examination a person who they believe is apparently suffering from a mental health disorder of a nature that will likely result in serious harm to the person or to another person.
- **Form 4** – Application by Physician for Involuntary Psychiatric Assessment of a patient under the MHA (section 9).

Constant care: constant continuous one-on-one supervision.

Close Observation: visual confirmation by staff member at **irregular** intervals, not to exceed 15 min. between checks, consisting of 6 or more observations per hour.

Routine Observation: visual observations every 1 hour.

Levels of Supervision:

- **Level 1:** Constant care - Patient at **High Risk** of violence or aggressive behavior.
 - Constant continuous supervision by **Law Enforcement/Peace Officer**; must remain with the patient at all times.
- **Level 2:** Constant care or close observation – by Qualified Person.
 - Constant care for patients at low or no risk of violence or aggressive behavior but at high risk of elopement.
 - Requires continuous constant one-on-one supervision by a Qualified Person.
 - Suicidal Observation – Patient at risk of self-harm/suicide require constant continuous care by Qualified Person or Close Observation.
- **Level 3:** Routine observation by healthcare team members for patients at very low risk for violence or suicide.
 - Requires routine visual observation every 1 hour.

Transfer of Custody Criteria is defined as follows:

- That the person was apprehended by a Law Enforcement/Peace Officer under;
 - Section 9 (application for Involuntary Psychiatric Assessment – Form 4) or
 - Section 11 (An order for Involuntary Medical Examination – Form 2) or
 - Section 12 (Peace Officer’s Power to take into Custody – Form 3) of the Mental Health Act.
- The Law Enforcement/Peace Officer has reported to ED health care team and provided information on the apprehension.
- Medical assessment was completed.
- Law Enforcement/Peace Officers and an ED physician in collaboration with the Health Care Team agreed that the patient presents limited risk of violence or aggression to themselves, hospital personnel, or others.
- The ED Physician in collaboration with the health care team determined the level of supervision required is not level 1.

IMPORTANT POINTS TO CONSIDER:

The ultimate decision as to whether or not Law Enforcement/Peace Officers are released and custody is transferred to the ED staff and/or a Qualified Person within the healthcare facility rests with the ED physician in consultation with the health care team members. This decision is made having taken into account the information provided by the Law Enforcement/Peace Officer, any prior contact, known history, and current level of threat/risk to staff, patients, visitors or the individual themselves.

If a voluntary patient arrives accompanied by Law Enforcement/Peace Officers for assessment, the officers are **not** obligated to remain with the patient, and patient handoff occurs between the officer and the triage nurse.

PROCEDURE:

1. Mental Health Patient Assessment:

- 1.1. **Notification:** Once Law Enforcement/Peace officers have taken an individual into custody for an involuntary medical examination or psychiatric assessment, they contact the designated health care facility ED staff and inform the ED of the event and estimated time of arrival at the facility as soon as practical to do so.
- 1.2. **Arrival/Triage:** Upon arrival to the ED with a MHP, Law Enforcement/Peace Officers present to the triage nurse and provide information regarding the MHP and their apprehension.
 - Register and triage the MHP as per the *Triage and Waiting Room Monitoring* (CLI.5110.PL.005) policy.
 - Assign Canadian Triage and Acuity Scale (CTAS) level 1 or 2 based on presentation.
 - Screen for violence and aggression following the *Violence Prevention Program in Acute Care* (CLI.4510.PL.004) policy
 - If practical, place the officer(s) and the MHP into a secure room, or another treatment area in the ED, to await ED physician assessment and the determination of the level of supervision required.
- 1.3. **Information Sharing:** In all cases, Law Enforcement/Peace Officers are required to provide all information to the Triage Nurse and/or designated Health Care Team member(s) about the MHP, inclusive of the details and behavior leading up to the apprehension, behavior while in custody, and any other information relevant to a comprehensive assessment of the patient's behavior. This may include gang affiliation, criminal association and the environment and circumstances in which the patient was apprehended. The officer's names badge numbers and report number are documented within the patient's health record.

2. Determination of Level of Supervision:

- 2.1. As soon as possible after presentation, an ED Physician in collaboration with the health care team or mental health liaison nurse if available assesses the MHP and determines the required level of supervision and associated patient observation level.
 - For a MHP at **High Risk** of violence or aggressive behavior, implement **Level 1: Constant Care** with constant supervision by **Law Enforcement/Peace Officers**; must remain with the patient at all times.
 - For MHP at low or no risk of violence or aggressive behavior, but at high risk of elopement, implement **Level 2: Constant Care** with one-on-one continuous supervision by Qualified Person.
 - For MHP at risk of self-harm/suicide, implement **Level 2: Suicidal Observation** based on level of suicide risk; (see *Suicide Prevention in Acute Care* CLI.4510.PL.010 policy).

- Specify Constant Care by Qualified Person or Close Observation

Violent Patients in Custody of Qualified Person:

If while in the care of staff or a Qualified Person, a patient becomes violent and the situation escalates (or is at risk of escalating) out of control,

- Page 3 times overhead “Code White” and the location.
- Call 911.
 - Request Law Enforcement/Peace Officers to return to the ED and establish control of the situation.
 - Based on the information provided by the caller, Law Enforcement/Peace Officer response is given an appropriate priority by the dispatch process.

- For patients at very low risk for violence or suicide, implement **Level 3: Routine Observation** requiring routine visual observation every 1 hour.

2.2. The ED physician documents the designated level of supervision on the *Level of Supervision – Mental Health* (CLI.5110.PL.008.FORM.01) form.

2.3. Communicates level of supervision required with Law Enforcement/Peace Officer and if their continued presence on site is required.

- While the patient remains in Law Enforcement/Peace Officer custody:
 - Reassess the level of supervision requirements at least every 2 hours and documented on the *Level of Supervision – Mental Health* form.
 - All efforts should be made by the Health Care Team to address and deescalate the violent/aggressive behavior as soon as possible to facilitate the release of custody from Law Enforcement/Peace Officer. This includes but is not limited to treatment and medication administration.
- While the patient remains in the custody of Law Enforcement/Peace Officer and to prevent delays in handoff once transfer of custody is deemed appropriate, the Health Care Team actively seeks a Qualified Person to assume custody.

3. Transfer of Custody:

3.1. If the ED physician in collaboration with the health care team determines that the MHP meets transfer of custody criteria, the Law Enforcement/Peace Officer can transfer custody of the individual to the Qualified Person or ED staff dependent on level of supervision requirements.

3.2. Law Enforcement/Peace Officer is advised that the continuation of custody is no longer required and that they are being released from their duty to remain with the MHP.

3.3. Health care team documents on the *Level of Supervision – Mental Health* form the date and time of the Law Enforcement/Peace Officer departure.

4. Duty to Return Person/Arrange Transportation:

4.1. If following the assessment, the ED physician determines that neither admission to hospital nor an involuntary psychiatric assessment are required, the hospital staff make

all reasonable efforts with the patient to arrange for transportation back to the place of apprehension.

4.2. If reasonable transportation arrangements cannot be made with and for the individual, the Law Enforcement/Peace Officer service that transported the individual to the ED will make reasonable efforts to have the individual returned to the place from which they were apprehended, or to another appropriate place.

- As depicted in the *Mental Health Patient Transport Algorithm* (CLI.5110.PL.008.SD.01), Law Enforcement/Peace Officer provide inter-facility transfer when:
 - If the MHP is involuntary detained **and** actively demonstrating violent, threatening or aggressive behavior.
 - If the MHP re-assessment remains at high risk for violent, threatening or aggressive behavior.
 - In those rare instances where the patient is at unusually high risk for elopement.

SUPPORTING DOCUMENTS:

[CLI.5110.PL.008.FORM.01](#) Level of Supervision – Mental Health
[CLI.5110.PL.008.SD.01](#) Law Enforcement/Peace Officer Involvement during Mental Health Patient Transport Algorithm

REFERENCES:

Manitoba Health, Seniors and Active Living and Manitoba Justice - *Transfer of Custody Provincial Guideline (Mental Health Amendment Act)*

Southern Health-Santé Sud Policy - [Information Transfer at Care Transition Interfacility Transfer CLI.4110.PL.007](#)