

NH DEPARTMENT OF CORRECTIONS POLICY AND PROCEDURE DIRECTIVE	CHAPTER <u>Enforcement Operations</u> STATEMENT NUMBER <u>5.88</u>
SUBJECT: <b>PRIVILEGE REDUCTION HEARINGS, DECISION, AND APPEALS</b>  PROPONENT: <u>Helen Hanks, Administrative Director</u> <i>Name/Title</i>  <u>Medical/Forensic Services 271-3707</u> <i>Division Phone #</i>	EFFECTIVE DATE <u>10/15/12</u> REVIEW DATE <u>10/15/13</u> SUPERSEDES PPD# <u>5.88</u> DATED <u>06/01/11</u>
ISSUING OFFICER:   <u>William Wrenn, Commissioner</u>	DIRECTOR'S INITIALS: _____ DATE: _____ APPENDIX ATTACHED: _____ YES: _____ NO: _____
REFERENCE NO: See reference section on last page of PPD.	

I. **PURPOSE:**

To ensure that all patients of the Secure Psychiatric Unit (SPU) have the right to a fair and impartial due process hearing and the right to make a written appeal about decisions made by the SPU Treatment Team following a privilege reduction.

II. **APPLICABILITY:**

To all SPU staff and patients

III. **POLICY:**

It is the policy of the Secure Psychiatric Unit to fairly assess charges of rule violations against patients, to provide patients charged with rule violations with speedy due process hearings, and the right of appeal for applied sanctions.

IV. **PROCEDURE:**

- A. SPU does not hold disciplinary boards, however, privilege reduction hearings are held by the SPU Treatment Team to determine the sanctions applied to residents. Residents that are classified by the New Hampshire State Prison Classification Board will be referred to the New Hampshire State Prison Disciplinary Process via the Warden for disciplinary action (see PPD 5.25 *Processing Spot, Disciplinary, Incident, & Intelligence Reports*).
- B. Incident reports and patient chart notes are utilized to document and record reported rule violations and incidents. These shall be completed by the staff member who reports the event.
  - 1. An Incident Report describes any violation of ward rules, unusual behavior, safety, sanitation, security violations, staff witnesses and representation, evidence, time and date of report.
  - 2. In the event of a dangerous incident, initial action will be taken to restore safety and order. This initial action will be properly documented, and does not constitute punishment.
  - 3. Incident Reports involving rule violations will be reviewed within 48 hours (excluding weekends & holidays). The review will ensure that the report is well written and answers the basic questions of who, what, when, where, how and why.
  - 4. Security staff will review the incident for follow-up and investigation (if needed) and forward the findings to the patient's Treatment Team.
  - 5. The Treatment Team will meet with the patient and present the alleged violations within three

days (excluding weekends and holidays) of receiving the report from security and prior to the imposition of any sanctions as punishment.

- a. Upon review with the patient, the Treatment Team may issue sanctions. Upon the issuance of sanctions, the patient will sign the Notice of Privilege Reduction (attachment 1) indicating they **do** or **do not** want a hearing. If the patient declines to sign, the clinical team will include that in a progress note documenting the review of this event.
  - b. The Treatment Team will review the behavior to determine if the origin of the event was driven by his mental illness (e.g. decompensation, psychotic episode...) or not.
6. If the patient waives the hearing, the Notice of Privilege Reduction will be forwarded to the SPU/RTU Administrator for review. The Notice of Privilege Reduction will then be placed in the patient's record under the "Security" section.

#### C. Hearings

1. If the patient indicates on the Notice of Privilege Reduction that they want a hearing, the notice will be forwarded to the SPU/RTU Administrator for review and to schedule the hearing.
2. The purpose of the hearing is to ensure that the disciplinary process was carried out in accordance with this policy and that the sanctions applied were appropriate.
3. The SPU Hearings Board shall be appointed by the SPU/RTU Administrator and in most cases shall consist of the same individuals who are regularly responsible for the patient's treatment. No member of the Treatment Team who was directly involved in the incident(s) to be reviewed shall be involved in the decision process. The SPU/RTU Administrator may make such substitutions to the team as necessary to ensure that fundamental fairness is preserved.
4. In cases where a report is referred for a hearing, the SPU Hearings Board will schedule a hearing as soon as possible, within seven days, excluding weekends and holidays, of receiving the Notice of Privilege Reduction. Notification of hearings will not be accomplished until allegations are investigated, reviewed, recommended and approved by the SPU/RTU Administrator. The SPU Hearings Board may postpone or grant a continuance of a hearing for a reasonable period of time for good cause. The patient shall be notified in writing of the date and time of the hearing at least 24 hours before the hearing is held. Such notice shall include a copy of the Notice of Privilege Reduction.
5. The SPU Hearing Board will ensure that patients are given the opportunity to make statements and present documentary evidence and may request assistance or witnessed on their behalf. Reasons for the denial of such a request are to be stated in writing.
6. The SPU Hearings Board reviews violations and incidents individually and decisions are based on treatment and security issues. The board's decisions are based solely on information obtained in the hearing process.
7. The record of the proceedings shall be made a permanent part of the patient's file, with a copy given to the patient. If the Treatment Team finds that no violation occurred, any and all documentation pertaining to the alleged violation shall be removed from the patient's file.
8. Appeals  
If the patient is not satisfied with the SPU Hearing Board's decision, they may appeal to the SPU/RTU Administrator, using a Resident Request Slip within 15 days of receipt of the decision. The appeal must be answered within 30 days in writing with a copy to the patient.

#### D. Sanctions Imposed

1. The Treatment Team shall impose sanctions for violations of rules and regulations listed in the SPU Manual. It is understood that patients may also receive sanctions for not following the orders of a staff member or failing to follow any written rule or posted notice.
2. The Treatment Team may impose sanctions up to 90 days for any rule infraction.
3. Major rule infractions shall be handled by security with input from the Treatment Team include, but are not limited to:
  - a. Fighting
  - b. Assault
  - c. Possession of a weapon

- d. Manufacture of a weapon
  - e. Assault with a weapon
  - f. Escape or possession of escape implements (keys, tools, dummies, etc.)
  - g. Introduction of illegal drugs
- E. Types of Sanctions
1. The Treatment Team may impose, but are not limited to the following sanctions:
    - a. Step reduction (which may involve movement to a more restrictive ward)
    - b. Restitution for destruction of state property (not due to a mental health condition)
    - c. Loss of electronics (radio, telephones, headphones, etc.)
    - d. Loss of television time
    - e. Loss of canteen
    - f. Loss of telephone privileges
    - g. Loss of recreation time to include weight room, gym/ball field, recreation library, rec. room, and/or loss of therapeutic recreational activities
    - h. Loss of off ward activity
    - i. Loss of off unit activity
    - j. Loss of dayroom and/or restrictions placed on out of cell time.
  2. Where applicable, sanctions imposed will run consecutive to any current sanctions unless specifically imposed to run concurrent.

REFERENCES:

Standards for the Administration of Correctional Agencies  
 Second Edition Standards  
**2-CO-3C-01**

Standards for Adult Correctional Institutions  
 Fourth Edition Standards  
**4-4226 thru 4227; 3-4230; 3-4232; 3-4234 thru 4348**

Standards for Adult Community Residential Services  
 Fourth Edition Standards

Standards for Adult Probation and Parole Field Services  
 Third Edition Standards

Other

HANKS/pf

Attachments

SECURE PSYCHIATRIC UNIT

NOTICE OF PRIVILEGE REDUCTION AND/OR TRANSFER BETWEEN WARDS

You are hereby notified that, effective \_\_\_\_\_ you are  
(Date)

\_\_\_\_\_ being transferred to:

\_\_\_\_\_ losing the following privileges:

The reason for this action being taken is:

You have a right to a hearing within 7 business days before your Treatment Team if you request it by signing in the indicated place below. This action will be reviewed by the Administrative Director.

Dated: \_\_\_\_\_

I have read the above notice and understand it. **IDO NOT** want a hearing

\_\_\_\_\_  
Patient's signature

\_\_\_\_\_  
Legal guardian (if indicated)

\_\_\_\_\_  
Witness

I have read the above and understand it. **IDO** want a hearing at which I will have the right to be present, to testify, to produce any witnesses that are available and to be assisted by a person of my choice.

\_\_\_\_\_  
Patient's signature

\_\_\_\_\_  
Legal guardian (if indicated)

\_\_\_\_\_  
Witness

If the patient refuses or is unable to sign, please so indicate. If the patient wants a hearing and has refused to sign, please so indicate.

Give the patient a copy of this form and give the original to the Treatment Team. After the Administrative Director's review, the original is to be filed in the patient's record.

<p>SECURE PSYCHIATRIC UNIT Notice of Privilege Reduction and/or Transfer Between Wards</p>	<p>PATIENT IDENTIFICATION</p>
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SECURE PSYCHIATRIC UNIT

NOTICE OF DECISION OF TREATMENT TEAM/ADMINISTRATIVE DIRECTOR

(PRIVILEGE REDUCTION OR TRANSFER)

In accordance with the Secure Psychiatric Unit Policy and your request on \_\_\_\_\_ the  
(date)

Treatment Team reviewed your privilege reduction/transfer. The reviewer makes the following findings or facts:

As supported by the above findings, it is decided and recommended as follows:

Date: \_\_\_\_\_ Signed: \_\_\_\_\_  
(Name and title)

Review by Administrative Director: (additional facts, findings, decisions)

Date: \_\_\_\_\_ Signed: \_\_\_\_\_

NOTICE: If you are not satisfied with the decision, you may appeal to the Director of Medical Forensic Services.

Give patient a copy of this form. File the original in the patient's record.

<p>SECURE PSYCHIATRIC UNIT          Notice of Decision of Treatment Team/Administrative          Director          Review (Privilege Reduction or Transfer)</p>	<p>PATIENT IDENTIFICATION</p>
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