

PURPOSE

To ensure all discharges, leaves of absence (LOAs), and authorized leave status (ALS) for persons adjudicated not guilty by reason of insanity (NGRI) are reviewed and approved by the NGRI Committee in accordance with applicable law, rules and policy. Treatment recommendations are based on actual individualized needs, including risk mitigation strategies, and are provided in the least restrictive setting that is appropriate and available.

DEFINITIONS**Authorized Leave Status (ALS)**

NGRI Committee approved release from a hospital for placement of an NGRI patient into a residential/community setting. NGRI patients approved for ALS receive treatment pursuant to an inpatient probate court order. ALS requires compliance with provisions in the individualized NGRI Risk Mitigation Contract. NGRI Committee monitoring can be maintained for up to five continuous years.

ALS NGRI Risk Mitigation Contract

Written agreement between the NGRI patient, NGRI Committee, supervising regional hospital, and community providers that serves as a central document outlining the conditions and supports for the NGRI patient who is residing in the community while on ALS from a hospital and being monitored by the NGRI Committee. This process would allow for individualized treatment with a spectrum of support and requirements depending on the individual's risks and needs (such as less conditions and support for patients with less risk or needs and more conditions and support for patients with higher risks and/or needs). It also outlines the due process afforded the patient for appealing NGRI Committee recommendations.

The NGRI Committee may make real-time changes to a NGRI Risk Mitigation Contract at any time in response to needs or issues that arise.

Discharge

An absolute, unconditional release of an individual from a hospital by action of the hospital or a court. Discharge decisions must be based on each person's actual, real, and individualized risk mitigation and behavioral health treatment needs. Discharged individuals will not be monitored by the NGRI Committee.

Forensic Liaison

An individual assigned by the Center for Forensic Psychiatry (CFP), another hospital operated by the department, or community mental health services program (CMHSP) to provide administrative management and coordination between the treating parties. Such coordination activities include but may not necessarily be limited to leave of absences (LOA), ALS and discharges.

Hospital

An inpatient program operated by the Michigan Department of Health and Human Services (MDHHS) for the treatment of individuals with serious mental illness, serious emotional disturbance or intellectual/developmental disability.

Individual Plan of Service (IPOS)

The fundamental document in the person's record, developed in partnership with the person using a person-centered planning process that establishes meaningful goals and measurable objectives including risk mitigation strategies overseen by the NGRI Committee. The plan must identify services (including discharge planning), supports and treatment as desired or required by the person.

Leave of Absence (LOA)

A temporary leave from a hospital ordered by a physician for treatment or community engagement purposes with a usual duration of hours to days. Requests for non-medical LOAs will be submitted to the NGRI Committee prior to the leave and will require their approval.

Not Guilty by Reason of Insanity (NGRI)

An affirmative defense to a prosecution of a criminal offense that the defendant was legally insane when they committed the acts constituting the offense. An individual is legally insane if, because of a mental illness as defined in § 400 of the MMHC, or because of having an intellectual disability as defined in §100b of the Michigan Mental Health Code (MMHC), that person lacks substantial capacity either to appreciate the nature and quality or the wrongfulness of their conduct or to conform their conduct to the requirements of the law. Mental illness or having an intellectual disability does not otherwise constitute a defense of legal insanity.

Not Guilty by Reason of Insanity (NGRI) Committee

A multidisciplinary committee consisting of psychiatrists, psychologists, and social workers specially trained in forensic behavioral health. Members of the committee are appointed by the CFP director. In addition to monitoring consultation and decision-making related to NGRI patients, their risk mitigation strategies and ALS NGRI Risk Mitigation Contract, the NGRI Committee is responsible for providing training and quality assurance activities regarding NGRI policy/process to courts, state hospital staff, and community providers involved in the treatment of NGRI patients.

NGRI Patient

An individual adjudicated NGRI and ordered by a probate court to undergo involuntary mental health treatment. The NGRI patient has been determined by a criminal court to have committed felonious criminal action(s) when mentally ill. Risk for future criminality/dangerousness during periods of exacerbated symptoms of mental illness is therefore elevated and requires that the NGRI patient is closely managed by a team with highly specialized forensic training to mitigate this substantial risk.

Plan Coordinator

A licensed social worker or psychologist who integrates, coordinates, monitors and assures implementation of each person's IPOS. Monitoring includes ongoing review of the IPOS, recording progress and changes, and initiating modification of the IPOS as necessary. A member of the treatment team will be designated as the plan coordinator for the hospital treatment team or community treatment team where indicated.

Risk Mitigation Strategies

Strategies in a person's IPOS designed to reduce a person's risk of harming themselves or others. Risk mitigation strategies must be tied to the person's behavioral health treatment needs.

Supervisory Level Forensic Psychiatrist

A 19-level, or higher, forensic psychiatrist assigned by the CFP director who coordinates services between the hospital treatment team, the NGRI Committee and the forensic liaison. This position advises the hospital treatment team to ensure, at a minimum, that risk mitigation strategies have been addressed based upon the person's behavioral health needs.

Treatment Team

Individuals who work together to develop and implement an IPOS. A treatment team includes the person, the person's guardian, a multidisciplinary team of mental health care professionals, including the plan coordinator, and involved direct care staff. A treatment team may either be a hospital treatment team or community treatment team.

Violent Crime

First, second- and third-degree murder, voluntary manslaughter, and felony criminal sexual conduct crimes.

POLICY

All NGRI patients, and those who are probate court ordered for treatment, are entitled to treatment, care, and services in the least restrictive setting that is appropriate and available. Decisions regarding treatment will be made to promote safely supporting persons in the least restrictive setting with community integrated services and ongoing outpatient treatment as clinically indicated.

PROCEDURE

A hospital or community treatment team must request, in writing, approval from the NGRI Committee for an NGRI patient's proposed discharge, LOA, or ALS from a hospital. The request to the NGRI Committee must include information relating to:

- The patient's history.
- The patient's present mental status.
- A detailed description of the proposed placement and services that ensure risk mitigation strategies are identified based upon the patient's behavioral health treatment needs and available in the proposed setting.
- Additionally, the NGRI Committee may perform a formal violence risk assessment utilizing validated risk assessment tools.

After reviewing the treatment team's request, the NGRI Committee will:

- Either approve or disapprove the discharge, LOA or ALS. Written notification of the NGRI Committee's decision must be provided to the patient, the patient's guardian, the hospital director, and the treatment team. If the request is denied:
 - The notification must include a detailed reason for the decision and treatment recommendations that will lead the NGRI patient towards approval.
 - The hospital treatment team will notify the patient, or their guardian, of their ability to file a petition for discharge per §484 of the MMHC.
- The decision will be entered into the electronic medical record and be made available to the court upon request.

The supervisory level forensic psychiatrist will:

- Provide input to the hospital treatment team regarding forensic processes to incorporate appropriate risk mitigation strategies into the IPOS in consultation with the NGRI Committee. The IPOS must not include any additional restrictions or conditions that exceed the individualized risk mitigation needs. The NGRI Committee must review and approve the risk mitigation strategies in the IPOS prior to discharge, LOA or ALS (if applicable).
- Receive clinical information from, and provide feedback to, the hospital treatment team on proposed changes to the IPOS as it relates to risk mitigation strategies and may consult with the NGRI Committee to aid the hospital team in completing the IPOS.

The NGRI Committee and CFP forensic liaison must be notified immediately if the person experiences any significant changes in behavioral or medical health status as it impacts risk mitigation. The appropriate CMHSP forensic liaison may be required to notify the court pursuant to §475 of the MMHC. At any time, the hospital or community treatment team may request urgent or emergent consultation with the NGRI Committee for patients under their care.

Any recommended discharge, LOA or ALS from a hospital for a person who was acquitted by reason of insanity on charges of a violent crime, or upon request from the NGRI Committee, must be reviewed for final approval by a forensic psychiatrist independent of the NGRI Committee designated by the senior deputy director of

the State Hospital Administration. Significant psychiatric diagnostic changes and significant reductions or discontinuation of antipsychotic or mood stabilizing medications require notification and review by the NGRI Committee.

REFERENCES

Michigan Mental Health Code, MCL 330.1401,330.1468, 330.1469a, 330.1482,330.1472a, 330.1483, 330.1484. MCL 330.1708. MCL 330.2050(5),

MDHHS Administrative Rule R330.10097

CONTACT

For more information, contact the State Hospital Administration.