Purpose

This policy and procedure governs the implementation of Health-General Article 10-708.The purpose of the Clinical Review Panel system is to provide a forum for consideration of whether psychiatric medications may be given to a patient, against the patient's expressed will, in non-emergency situations. In designing the clinical review system an effort has been made to balance due process considerations and other safeguards, with the clinical needs of the patient.

Policy

It is the policy of Spring Grove Hospital to make clinical decisions concerning the administration of psychiatric medications to non-consenting patients, in non-emergency situations, in a manner consistent with Health-General Article 10-708. Clinical Review Panels must be consistent with the rights of the individual, safety, and the clinical interest of the patient. A patient at Spring Grove Hospital may not be medicated with a psychiatric medication against his/her expressed will, except as permitted by one or more of the following circumstances:

1. Emergency
2. When ordered by a court of law.
3. When authorized by a legal Guardian of the Person, where authority to make decisions concerning the administration of psychiatric medications is authorized by the guardianship order.
4. Under the authority of a Clinical Review Panel, executed in a manner consistent with the law and Hospital policy.

Scope

The clinical review panel mechanism is available only for those patients who are:

1. Court-committed for treatment; or
2. Involuntarily admitted and retained by an Administrative Law Judge (ALJ).

Procedure

A. **Patient Refuses to Accept Medication(s) Prescribed by a Psychiatrist for the Treatment of a Mental Disorder:**

When a patient who is court-committed for treatment or involuntarily admitted and retained by an ALJ refuses to accept medication(s) prescribed by a psychiatrist for the treatment of a mental disorder, the treating physician shall:

1. Advise the patient of the clinical need for the medication(s);
2. Explain the potential consequences of taking and of refusing the prescribed medication(s), including:
   i) The potential side effects of the medication(s); and
   ii) The material risks and benefits of taking or refusing the medication(s);
3. Based on clinical judgment, give the patient the appropriate Patient Medication Instruction Sheets.
4. Discuss with the patient treatment alternatives to the prescribed medication(s), including other medication(s); and
5. Document all the above by writing a detailed note in the patient's medical record.

B. **Patient Continues to Refuse the Prescribed Medication(s), as well as any Clinically Appropriate Alternatives; Initiating the Panel**: In the event that the procedures noted above have been followed, and if the patient continues to refuse the prescribed medication(s) as well as any reasonable alternatives, the treating physician may request that the Chief Medical Officer (CMO) or designee schedule a Clinical Review Panel. The CMO or designee has been designated by the Chief Executive Officer (CEO) to assume this duty. The request for a Clinical Review Panel is made by contacting the CMO's Office to make arrangements for the panel. The CMO's office will provide the **NOTICE OF CLINICAL REVIEW PANEL** form to the team.

C. **Clinical Review Panel Composition, Scheduling, and Notification**: Upon submission of a request for a Clinical Review Panel, the CMO (or designee) shall:

1. Make any necessary further inquiries.
2. Appoint a panel. No member of the panel may be a member of the patient's current treatment team. The panel shall consist of:

a. The CMO or the CMO's psychiatrist designee;

b. A second psychiatrist;

c. A licensed psychiatric professional, other than a physician.

3. Schedule the location, date, and time that the panel will meet. The schedule must allow sufficient time for the proper notification of the patient and the patient's rights advisor.

4. Complete the appropriate sections of the **Notice of Clinical Review Panel**; and provide the document to the treating psychiatrist.

5. The treating psychiatrist will give the completed notice to the patient and the patient's rights advisor at least 24 hours prior to the scheduled Clinical Review Panel. The date and time that the notice is given to the patient, as well as the date and time the notice is given to the rights advisor is recorded in the appropriate space and is confirmed by the signature of the treating physician.

D. **Role of the Treating Physician in a Clinical Review Panel**: As noted above, no member of the patient's current treatment team may serve as a member of the Clinical Review Panel. However, members of the patient's current treatment team do have the duty to share appropriate clinical information with the panel, in a manner that is consistent with the panel's function. The patient's treating physician shall be prepared to assist the panel to:

1. Review the patient's clinical record, including diagnosis and clinical information supporting the diagnosis;

2. Discuss any treatment plan that may be agreeable both to the treatment team and the patient, including alternative treatments and medication(s);

3. Provide the rationale as to why the use of the prescribed medication(s) represents a reasonable exercise of professional judgment; and,

4. Explain why, without the medication the patient is at substantial risk of continued hospitalization because of:

a. Remaining seriously mentally ill with no significant relief of the mental illness symptoms that:

- Cause the patient to be a danger to self or others while in the hospital;
- Resulted in the patient being committed to the hospital under Title 10 of the Health General Article or Title 3 of the Criminal Procedure Article; or
- Would cause the patient to be a danger to self or others if released from the hospital.

b. Remaining seriously mentally ill for a significantly longer period of time with the mental illness symptoms that:

- Cause the patient to be a danger to self or others while in the hospital;
- Resulted in the patient being committed to the hospital under Title 10 of the Health-General Article or Title 3 of the Criminal Procedure Article; or
- Would cause the patient to be a danger to self or others if released from the hospital; or

c. Relapsing into a condition in which the patient is unable to provide for his or her essential human needs of health or safety.

E. **Authority of the Chairperson of the Clinical Review Panel**: The Chairperson of the Clinical Review Panel, will take appropriate measures necessary to conduct the panel in an orderly manner, and may postpone the panel for good cause for a reasonable period of time.

F. **Clinical Review Panel Process**: The Clinical Review Panel shall:

1. Review the patient's clinical record, as appropriate;

2. Assist, to the extent possible, the patient and the treating physician in an effort to arrive at a mutually agreeable treatment plan;

3. Ask the patient for the reason or reasons that the patient is refusing the medication(s) and inquire about patient's

willingness to accept alternative treatment, including other medication(s);

4. Consult with the treatment team regarding the current treatment plan and alternative modes of treatment, including other medication(s), if any, that were considered by the team;
5. Provide the patient with an opportunity to:
   a. Give information;
   b. Present witnesses;
   c. Ask questions of anyone presenting information to the panel; and,
6. Explain the potential consequences (including possible side effects, material risks, and benefits) of requiring the patient to take the medication(s) and of withholding the medication(s) from the patient. Note: The American Medical Association (AMA) Patient Medication Instruction Sheet may be used to facilitate this explanation.

G. **Conditions Which Must be Satisfied in Order for the Panel to Approve a Medication**: The panel may approve a plan to give a patient medication(s) and may recommend an approved alternative medication(s) only if **all** of the following conditions are met:

1. The medication is prescribed by a psychiatrist for the purpose of treating the patient's mental disorder;
2. The use of the prescribed medication(s) represents a reasonable exercise of professional judgment;
3. Without the medication, the patient is at substantial risk of continued hospitalization because of one of the following:
   a. Remaining seriously mentally ill with no significant relief of the mental illness symptoms that:
      - Cause the patient to be a danger to self or others while in the hospital;
      - Resulted in the patient being committed to the hospital under Title 10 of the Health General Article or Title 3 of the Criminal Procedure Article; or
      - Would cause the patient to be a danger to self or others if released from the hospital;
   b. Remaining seriously mentally ill for a significantly longer period of time with the mental illness symptoms that:
      - Cause the patient to be a danger to self or others while in the hospital;
      - Resulted in the patient being committed to the hospital under Title 10 of the Health-General Article or Title 3 of the Criminal Procedure Article; or
      - Would cause the patient to be a danger to self or others if released from the hospital; or
   c. Relapsing into a condition in which the patient is unable to provide for his or her essential human needs of health or safety.
4. No available alternative treatments are acceptable to both the patient and the treating physician.

H. **Panel Deliberations, Recommendations, and Notifications**: Following consideration of all the required issues listed in paragraph G, the Panel:

1. Shall meet privately, and no individual who is not a member of the Panel may be present. This includes the patient, the patient's advocate, any witnesses, as well as the treating psychiatrist and other members of the patient's current treatment team. The purpose of this exclusion is to ensure that testimony is not made available to the Panel during its deliberations that is not also made available to the patient, the patient's advocate, witnesses, or the patient's treatment team.
2. The Panel's decision and recommendations must be based upon:
   a. A clinical assessment of the patient's medical record; and
   b. The information presented to the Panel.
3. The Chairperson of the Panel shall advise the patient of the Panel's decision, appeal rights, deadlines, and process by completing, in its entirety **THE DECISION OF CLINICAL REVIEW PANEL** form. The

Chairperson, or the Chairperson's designee, gives a copy of the form to:

a. The patient;

b. The Rights Advisor;

4. The treating physician or other member of the treatment team is given the original for **inclusion in the patient's medical record**.

5. In addition, the other members of the Panel shall summarize in the medical record the Panel's findings and recommendations. This summary is to be in the form of a progress note and should be labeled: "Clinical Review Panel."

I. **Consideration of Appeal/Delay in Implementing Panel's Recommendations**: The patient may, within **48-hours** of notification of the Panel's decision, appeal the decision. Therefore:

1. The staff may not medicate the patient without the patient's consent, except for in an emergency, for 48-hours following notification to the patient of the Panel's decision. In order to avoid confusion, it is required that the treating physician not write the order for medication (to be given under the authority of the Clinical Review Panel) until after the 48-hours have passed without the patient filing an appeal, or, if the patient does appeal until after the appeal hearing has been held.

2. If the patient files an appeal, staff may not medicate the patient, except in an emergency, unless and until an Administrative Law Judge approves the administration of the medication(s).

3. If the patient makes the request to file an appeal AFTER the end of 48-hours appeal window, follow Section K. If the medication has already initiated, under authority of a Clinical Review Panel, the medication does not have to be stopped, pending appeal hearing unless a court ordered the medication be placed on hold.

J. **Administration of Medication(s) to Patients, Under the Authority of the Clinical Review Panel**:

When medication is administered to a patient, under the authority of a Clinical Review Panel:

1. A member of the patient's treatment team (R.N., L.P.N., or M.D.) should ask the patient whether the patient continues to object to the administration of the medication. In the event that the patient affirms that he or she is no longer objecting to the administration of the medication, this is documented by the staff member in the patient's medical record. As necessary, a physician should be contacted to make any changes in the medication route and/or dosage rendered appropriate by the patient's willingness to accept medication.

2. Ordering a medication that is to be given, if necessary against the patient's expressed will, under the authority of a Clinical Review Panel, and physical force (restraint) is medically necessary: When the physician intends for a patient to be medicated under the authority of a Clinical Review Panel against the patient's expressed will and if necessary by force, the physician must specifically authorize the use of physical force (restraint) as part of the medication administration procedure. As part of this:

a. The physician shall note this circumstance in writing the order (e.g., "Haloperidol 10 mg. p.o. b.i.d. If the patient refuses give Haloperidol I.M. b.i.d, if necessary, against the patient's expressed will, by the authority of the Clinical Review Panel and with the use of physical force if the patient refuses to physically submit.")

b. The physician must see and personally evaluate the patient in a face-to-face evaluation within an hour of any physical restraint that is to be used.

c. For the physician to order physical force as part of the medication administration under a Clinical Review Panel, the physician must find that the criteria for restraint (see SGHC071488) have been met. In such instances, the physician must follow the applicable provision of SGHC071488 regarding restraints.

e. The physician must enter a progress note that (i) documents the finding of the face-to-face evaluation and the fact

that the evaluation occurred within an hour of the initiation of the restraint and (ii) identifies the emergency situation that justifies the use of force in giving the medication. This note should be entered into the record as soon as possible but MUST be entered into the record within 12 hours of the evaluation.

f. The physician's order must specify that the patient is to first be offered an opportunity to voluntarily accept the medication(s).

g. The physician must be contacted by nursing staff each and every time restraint is used as part of medicating a patient under the authority of a Clinical Review Panel so that a physician can perform a face-to-face evaluation of the patient within an hour of the use of the physical restraint.

h. When medication is being administered under the authority of a Clinical Review Panel, the treating physician shall document in the patient's medical record, at least **every 15 days** the known benefits and side effects of the medication(s) to the individual.

i. All medications ordered under the authority of the Clinical Review Panel must specify the expiration date of the CRP. Any such medication orders that do not have this specification will not be filled by the pharmacy and the physician will be contacted by the pharmacy with a request to write a new order with the specified information. All orders for CRP medications will expire at 30 days from the date of the order or on the expiration date of the CRP, whichever is sooner. Orders will be tracked by the Pharmacy and the CMO will receive reports on medical staff compliance with this provision.

K. **Filing an Appeal**: Any staff member who is advised by a patient that the patient requests an appeal shall document the request in the patient's medical record, and:

1. Notify the Charge Nurse on duty who will notify:
   a. Immediately the patient's treating psychiatrist or their substitute.
   b. Immediately the Rights Advisor. A voicemail message may be left for the appropriate Rights Advisor, unless the unit has been provided with an alternate number.
   c. CMO's Office: If the request is made at a time other than the Rights Advisor's and the CMO's normal business hours, leave a voice message containing the patient's request to appeal.
   d. The Spring Grove Hospital Center Forensic Coordinator in the Department of Forensic Services, by email or voicemail, if necessary.

L. **Office of Administrative Hearings-Notice of Appeal**: The Spring Grove Hospital Center's Forensic Coordinator, in the Forensics Office, after receiving an appeal document from the Rights Advisor shall:

1. **Within 24 business-hours** notify the Office of Administrative Hearings: and,
2. Ensure that the "Notice of Hearing" is documented in the patient's medical record.
3. Coordinate between the Office of Administrative Hearings, Office of the Attorney General, patient's representative, patient's psychiatrist & Rights Advisor to schedule a hearing date.

NOTE: In the event that a staff member is given notice by a patient of intent to appeal a Clinical Review Panel decision, and the notice is given at a time other than the usual business hours of the CMO (or designee) and the Rights Advisor, then it is the duty of the staff member to follow the relevant steps in Section K above as it relates to responsibility.

M. **Appeal Hearing**: If a patient files an appeal to the Administrative Law Judge, the hearing will be **de novo** (i.e., a "new" hearing and not simply a review of the record of the Clinical Review Panel). The treating physician, therefore, must be prepared to testify regarding the clinical issues. The rights advisor must be prepared to testify regarding the procedures that were

followed for the Clinical Review Panel, particularly procedural issues pertaining to patient's rights, and due process.

N. **Appeal Decision**: A patient may be medicated against his/her expressed will upon approval by the Administrative Law Judge. **Within 14 days** following a decision by the Administrative Law Judge, the patient or the facility may appeal the decision to the Circuit Court. The appeal to the Circuit Court will be based upon the record of the Administrative Law Judge hearing, and a decision will be rendered by the court within 7 days from the date the appeal is filed. The patient may be medicated during the 14-days following the decision of the ALJ, as well as while any further appeal is pending.

O. **Renewal of Clinical Panel Decision, and Renewal Clinical Review Panels**: Administration of medication(s) is approved for a maximum of 90-days. If the patient is being medicated under the provisions of a Clinical Review Panel, and it appears that more than 90-days treatment will be required, the treating physician must make arrangements to request a CRP before the 90-days expires. If the renewal panel approves the continuation of medication(s), the administration of medication(s) approved by the former CRP need not be interrupted even if the patient appeals. However, if the patient does appeal, only those medications and dosages approved by the former CRP may continue to be administered during the appeal process. The changes to medications and dosages approved by the most recent Clinical Review Panel may NOT be instituted without the patient's consent until an Administrative Law Judge upholds their administration at the appeal hearing.

P. The 90-day approval period referenced in this document refers to:

1. Initial Panels
    a. For those patients who do not appeal the Clinical Review Panel's decision, the 90- days start 48-hours after the date and time that the panel's decision was offered to the patient.
    b. For those patients who do appeal the Clinical Review Panel's decision, 90-days are calculated from the date that the ALJ upholds the Clinical Review Panel's decision.
2. Renewal Panels
    a. For those patients who do not appeal the renewal Clinical Review Panel's decision, the 90-days are calculated from the date of the renewed Clinical Review Panel.
    b. For those patients who do appeal the renewal Clinical Review Panel decision, the 90-days are calculated from the date that the ALJ upholds the renewed Clinical Review Panel's decision.

References

Forms: Notice of Clinical Review Panel Pursuant to Health-General Article §10–708, Request to Appeal Decision of Clinical Review Panel

Approved by

03/28/24
Monica Chawla, M.D., FAPA, Chief Medical Officer — Date

03/28/24
Marie Rose Alam, M.D., FAPA, Chief Executive Officer — Date

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