



FOR IMMEDIATE RELEASE

North Suburban Regional Human Rights Authority
Report of Findings
HRA #18-100-9005
Northwestern Medicine
Central DuPage Hospital

Introduction

In August 2017, the North Suburban Regional Human Rights Authority (HRA) opened this investigation regarding Northwestern Medicine, Central DuPage Hospital (CDH). A complaint was received that alleged that while in the Emergency Department (ED), a patient was denied access to the bathroom because he refused to provide a blood/urine sample. He was subsequently incontinent of bladder and bowel and was then given emergency medication.

Substantiated findings would violate rights protected under the Illinois Mental Health and Developmental Disabilities Code (405 ILCS 5).

According to its web-site, CDH is one of two Level II Trauma Centers in Illinois. Physician specialists on the medical staffs of CDH are available 24 hours a day, seven days a week along with the skilled staff and advanced technology to handle acute critical care. The Emergency Department has approximately fifty-nine beds to serve the community.

Methodology

To pursue this investigation, the HRA reviewed a patient's clinical record with written consent and reviewed hospital policy relevant to the allegation. The HRA conducted a site visit in October 2017, at which time the allegation was discussed with the Clinical Director of Emergency Services, a Registered Nurse/ED, an Accreditation and Policy Manager and a representative from Patient Relations.

Findings

The clinical record reviewed revealed data on an adult male patient who presented to the hospital via ambulance at about midnight on August 31, 2016. It was documented that the patient had reportedly called the FBI and due to the nature of the call, they contacted local law enforcement. Local law enforcement contacted Emergency Medical Services who presented to the patient's home. It was documented that the patient was very angry about being at the hospital and he was very confrontational. According to chart documentation, the patient allowed the Physician to listen to his heart and lungs, push on his stomach and do a gross neurology examination. The patient would not allow an examination of his head, neck or ears. It was noted that the patient had been non-cooperative and was refusing to allow staff to draw his labs. The patient stated that he had had a "bad experience" the last time, saying it took two hours and that no one is going to draw his blood. The Physician was notified and the Physician asked to give the patient some time. At about 1:30 a.m. it was documented that the patient woke up and requested to go to the bathroom.

He was then asked if he could give a urine sample-the patient replied that he would not give them anything. At 2:40 a.m. it was noted that the patient was resting quietly; he did not allow his vitals to be taken. A few hours later, he was observed to be standing at the doorway demanding pain medication; the Physician was notified and orders were received for Tylenol. At 5:15 a.m., it was documented that the patient remained awake and he was walking around the room. He remained confrontational with the security guard, questioning why he is there and demanding to leave; he continued to refuse the blood draw. About an hour later, it was documented that he walked to the bathroom to void and security remained with him.. At 7:20 a.m., it was again noted that the patient was refusing the lab draw and urine sample; the Physician and Social Services were made aware of the situation. It was documented that the patient was petitioned and certified. At 7:35 a.m. it was noted that the patient had a bowel movement on the floor and he was refusing to cooperate with staff. It was documented that four security officers were at the bedside and the patient was held for an IM (intermuscular) medication injection. A Restriction of Rights Notice was not included in the chart documentation. At 9:05 a.m. the patient agreed to have a blood draw. He was subsequently transported for behavioral health services later that morning.

At the site visit, it was stated that every patient has the right to refuse to have blood drawn and/or provide a urine sample. It was stated they would of course, prefer that the patient allow staff members to complete this procedure, but again, it is the patient's choice. The HRA interviewed the RN that administered the emergency medication. She did recall the patient as she stated this was somewhat of an unusual incident. When asked about the need for the injection of emergency medication, she stated that the patient was very confrontational and that "he came at me". She recalled that the Physician was present at that time and ordered the medication. The Clinical Director of Emergency Services made a point of saying that the medication was given after the patient was petitioned and certified. When asked to clarify that statement, questioning if the completion of the petition and certificate meant that rights were relinquished, he stated of course not, but again noted the above documents were completed prior to the medication being given.

The HRA reviewed the policy that describes the process for obtaining consent for treatment, including the process for obtaining informed consent for treatment and procedures that carry the risk for harm. The policy further describes the circumstances under which informed consent should be obtained, as well as who may consent for treatment and procedures. The Emergency Situations section of the policy states that, "Care may be provided without written consent in medical emergencies only when immediate treatment is required:

1. To preserve the life or health of the patient or
2. To remove a threat of life or health discovered during the course of an operation and not anticipated prior to surgery or
3. It is impossible/impractical to obtain consent from the patient or the patient's representative; and or
4. There is no reason to believe that the patient would decline the treatment, given the opportunity to consent."

Also reviewed was the hospital's Patient Rights policy which states that patient rights are respected at all times. Mental health and chemical dependency patients are informed of their specific rights as a CDH patient, in advance of furnishing or discontinuing care whenever possible.

Conclusion

Pursuant to the Illinois Mental Health and Developmental Disabilities Code, Section 2-107, "(a) An adult recipient of services or the recipient's guardian, if the recipient is under guardianship, and the recipient's substitute decision maker, if any, must be informed of the

recipient's right to refuse medication or electroconvulsive therapy. The recipient and the recipient's guardian or substitute decision maker shall be given the opportunity to refuse generally accepted mental health or developmental disability services, including but not limited to medication or electroconvulsive therapy. If such services are refused, they shall not be given unless such services are necessary to prevent the recipient from causing serious and imminent physical harm to the recipient or others and no less restrictive alternative is available. The facility director shall inform a recipient, guardian, or substitute decision maker, if any, who refuses such services of alternate services available and the risks of such alternate services, as well as the possible consequences to the recipient of refusal of such services.”

Pursuant to the Illinois Mental Health and Developmental Disabilities Code, Section 3-608, “Upon completion of one certificate, the facility may begin treatment of the respondent. However, the respondent shall be informed of his right to refuse medication and if he refuses, medication shall not be given unless it is necessary to prevent the respondent from causing serious harm to himself or others. The facility shall record what treatment is given to the respondent together with the reasons therefor.”

Pursuant to the Illinois Mental Health and Developmental Disabilities Code, Section Sec. 2-201, “(a) Whenever any rights of a recipient of services that are specified in this Chapter are restricted, the professional responsible for overseeing the implementation of the recipient's services plan shall be responsible for promptly giving notice of the restriction or use of restraint or seclusion and the reason therefor to: (1) the recipient and, if such recipient is a minor or under guardianship, his parent or guardian; (2) a person designated under subsection (b) of Section 2-200 upon commencement of services or at any later time to receive such notice; (3) the facility director; (4) the Guardianship and Advocacy Commission, or the agency designated under "An Act in relation to the protection and advocacy of the rights of persons with developmental disabilities, and amending Acts therein named", approved September 20, 1985, if either is so designated; and (5) the recipient's substitute decision maker, if any. The professional shall also be responsible for promptly recording such restriction or use of restraint or seclusion and the reason therefor in the recipient's record.”

According to clinical chart documentation, the patient was not denied access to the bathroom because he refused to provide a blood/urine sample; the allegation is unsubstantiated. The patient was incontinent of feces and he was refusing to cooperate with staff members. This action, in and of itself, does not constitute the need for emergency medication. The RN offered that the patient was confrontational with threatening type behavior. This would fall into the mandates set forth in the Mental Health Code regarding the need for emergency medication, however this behavior was not documented. The allegation is substantiated.

Recommendation

The hospital must ensure that when involuntary medication is given, regardless of the patient’s admission status, the medication is given only to prevent the patient from causing serious harm to himself or others. Charting documentation must state the same and a Restriction of Rights Notice must be completed.

Suggestion

In reviewing the consent for treatment policy, the HRA noted a section that addresses who may consent for adults who lack decisional capacity. The policy states that a surrogate decision maker as determined by the physician can provide consent. The HRA takes this opportunity to remind hospital personnel that for those patients receiving mental health services, a surrogate decision maker, other than a court appointed guardian, under the Health Care Surrogate Act may

not consent to the administration of electroconvulsive therapy or psychotropic medication (405 ILCS 5/2-102 (a-5)).

RESPONSE

Notice: The following page(s) contain the provider response. Due to technical requirements, some provider responses appear verbatim in retyped format.

January 23, 2018

Sent via Federal Express and Email to

Jon.Burnet@illinois.gov

Julie.Sass@illinois.gov

Ms. Patricia Getchell, Chairperson
North Suburban Regional HRA
Illinois Guardianship & Advocacy Commission
9511 Harrison Avenue, W-335
Des Plaines, IL 60016-1565

Re: **HRA #18-100-9005**

Dear Ms. Getchell:

Please accept this letter as Central DuPage Hospital's response to your December 6, 2017, correspondence regarding the above captioned matter.¹ We accept your conclusion that the patient's receipt of emergency medication under the circumstances was in compliance with the Mental Health Code. We also accept your finding that the medication was appropriately administered to prevent the patient from causing serious harm to himself or others, but that the patient's threatening behavior was not specifically documented. In response to your Recommendation:

1. Central DuPage Hospital Emergency Department staff **has required and continues to require annual De-Escalation Training**, which includes education on verbal de-escalation techniques, recognition of behavioral warnings signs, and steps to ensure patient and staff safety. The training materials also instruct staff to "report and document any threats to yourself or others." Enclosed are excerpts regarding documentation from distributed materials and slides used during the referenced education and training.
2. Central DuPage Hospital agrees a Restriction of Rights Notice must be completed when involuntary psychotropic medication is administered. Enclosed is the hospital's policy on the matter, which provides that when a patient's rights

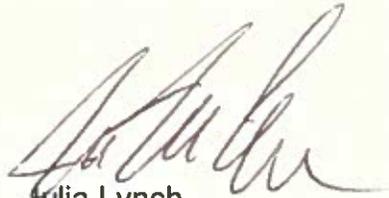
¹ Mr. Luke McGuiness is no longer with Central DuPage Hospital. Mr. Brian Lemon is President, Central DuPage Hospital. For future reference, IGAC may also direct correspondence to the Northwestern Memorial HealthCare Office of General Counsel.

Patricia Getchell, Chairperson
January 23, 2018
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are restricted, a "Notice Regarding Restricted Rights of Individuals" must be completed.

Furthermore, we acknowledge your suggestion regarding Central DuPage Hospital's Consent Policy. Central DuPage Hospital will review its Consent Policy to ensure it is aligned and consistent with the Health Care Surrogate Act and Mental Health Code. We thank you for the opportunity to provide a meaningful review and resolution to this matter.

Very Truly Yours,

A handwritten signature in black ink, appearing to read 'Julia Lynch', written in a cursive style.

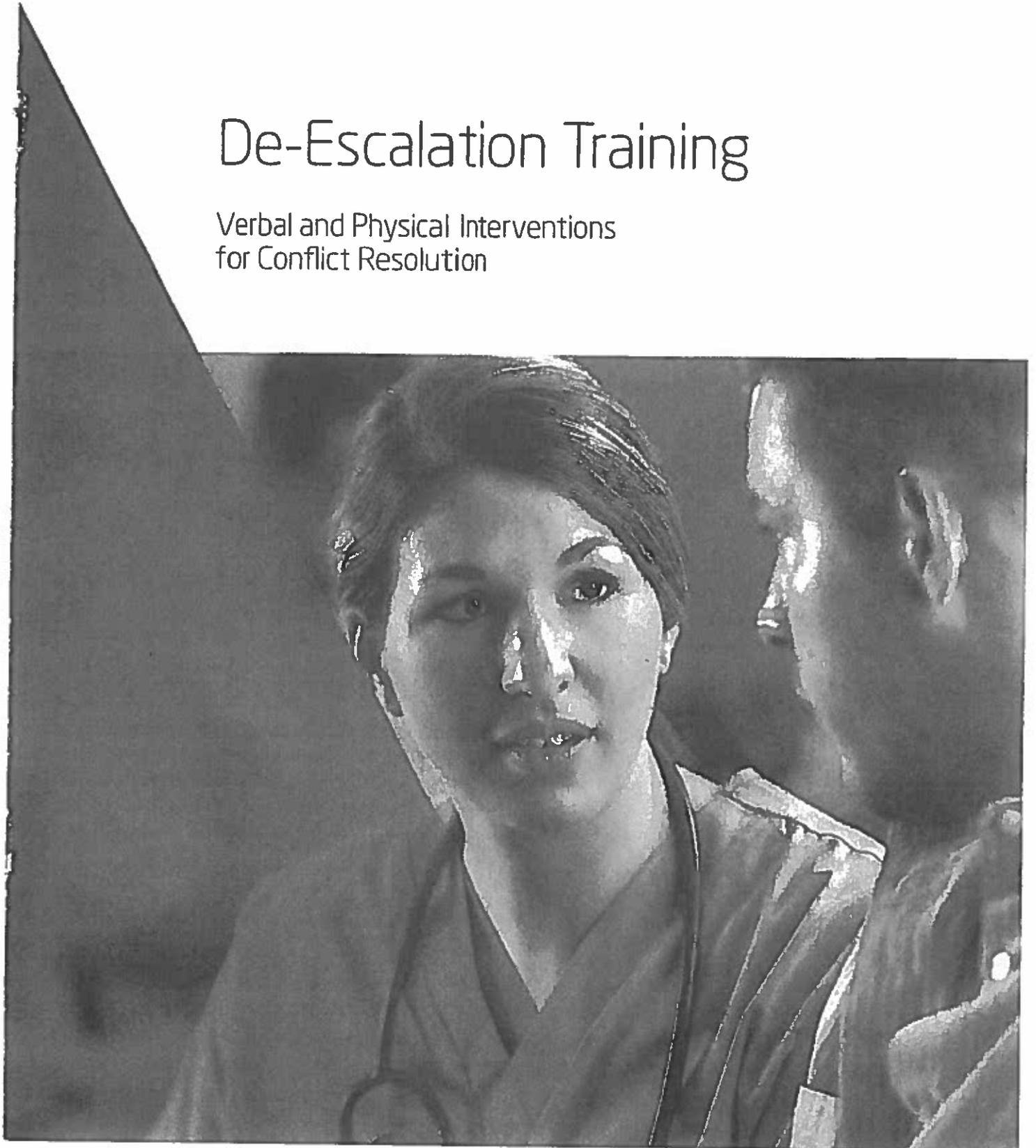
Julia Lynch
Vice President and Senior Associate General Counsel

JKL/md
Enclosures

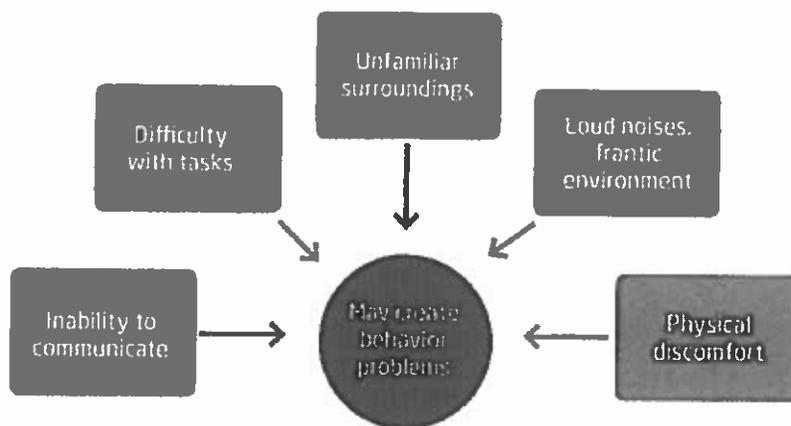


De-Escalation Training

Verbal and Physical Interventions
for Conflict Resolution



Tips for caregivers: reacting to aggressive dementia behavior



Integra Select Care. Alzheimer's behavior management.
<http://nursinghomesieno.com/alzheimers-behavior-management/>
Accessed November 21, 2016

General verbal de-escalation tips

- Remain calm.
- Listen. Use your communication skills.
- Avoid overreaction.
- Remove the audience – relocate them to a safer place (onlookers can be perceived as threatening).
- Watch for non-verbal clues or threats.
- Bring in trained personnel to assist when needed.
- Avoid criticizing, minimizing, arguing and aggressive language (including body language).
- Avoid becoming rigid in your process.
- Avoid becoming emotionally involved; control your emotions at all times. Never take any derogatory comment personally.

Physical de-escalation tips

- If the patient becomes physically violent, de-escalation techniques alone cannot control the situation and prevent the patient from causing harm. The physical de-escalation class provides tools to keep yourself and the patient as safe as possible in these situations.
- Use physical intervention techniques only as a last resort to prevent injury to yourself, the individual and others.
- Protect yourself at all times. Trust your instincts.
- Take all verbal threats seriously. It is often the verbal equivalent of "Get out of my way! I am leaving now!"
- While de-escalating another person, you want to be in a non-threatening, non-challenging and self-protecting position: slightly more than a leg's length away, and far enough away that the other person is unable to hit, kick or grab you.
- Always document and report any threats to yourself or others. Documentation will help all parties when evaluating re-occurring events.
- Minor situations can be a cry for help and/or warning signs of larger actions yet to come.
- Use of physical force may result in someone getting injured. Minimum force should always be used to control the situation.



Physical De Escalation

- **Violent patient:** if the patient becomes physically violent, de-escalation techniques alone cannot control the situation and prevent the patient from causing harm to self, staff or others. Physical De Escalation class will give you tools to react and keep yourself and the patient safe as possible in those situations.
- Use Physical Force only as last resort to prevent injury to yourself, the individual or others.
- Protect yourself at all times. Trust your instincts.
- Take all Verbal threats seriously. It is often the verbal equivalent of “Get out of my way, I am leaving NOW!”
- While de-escalating another person, you want to be in a non-threatening, non-challenging and self-protecting position: slightly more than a leg’s length away, far enough away that the other person cannot hit, kick or grab you.
- Always report and document any threats to yourself or others. Documentation will help all parties when evaluating re-occurring events.
- Minor situations can be a “cry for help” and/or “warning signs” of larger action yet to come
- Use of physical force may result in someone getting injured. Minimum force should always be used to control the situation.

Policy Number	
Department	BHS Inpatient Psychiatric Unit
Author	BHS Manager / BHS Director
Last Approved Date	01/25/2017
Approved By	ACNO
Due for Next Review	01/24/2018

TITLE: Inpatient Mental Health Rights and Restriction of Rights

SCOPE:

<input type="checkbox"/> NM – Northwestern Memorial Hospital	<input type="checkbox"/> NM – Lake Forest Hospital
<input type="checkbox"/> NM – Northwestern Medical Group	<input checked="" type="checkbox"/> NM – Central DuPage Hospital
<input type="checkbox"/> NM – Regional Medical Group	<input type="checkbox"/> NM – Delnor Hospital
<input type="checkbox"/> NM – Kishwaukee Hospital	<input type="checkbox"/> NM – Valley West Hospital
<input type="checkbox"/> NM – Marianjoy Rehabilitation	<input type="checkbox"/> NM – Kishwaukee Physician Group

APPLICABLE DEPARTMENT(S):

Behavioral Health Services BHS Inpatient Psychiatric Units Behavioral Health Services Social Work Services

APPLICABLE STANDARD(S) / REGULATION(S):

PURPOSE:

To establish guidelines for providing patients with information concerning their rights and possible restrictions of their rights while on the BHS Inpatient Psychiatric Units

POLICY STATEMENT(S):

Every patient admitted to the BHS Inpatient Psychiatric Units will be provided with a copy of the appropriate State of Illinois form detailing their rights while they are an inpatient for mental health treatment.

I. PROCEDURE:

Patients being admitted for inpatient mental health treatment on a voluntary basis from the Emergency Department will have their rights read to them and any questions answered prior to leaving the Emergency Department by the BHS Social Work Services Case Therapist.

1. A copy of the “Application for Voluntary Admission” and “Rights of Individuals Receiving Mental Health and Developmental Disability Services” will be given to patient.
2. Adult patients being admitted from the Emergency Department on a “Petition for Involuntary/Judicial Admission and an Inpatient Certificate” will have their rights read to them and any questions answered by BHS Inpatient Psychiatric Unit personnel, the patient will then be given a copy of the documents within 12 hours of admission.
3. Minor patients who are being admitted to the BHS Inpatient Psychiatric Unit based on an “Application by an Adult for the Admission of a Minor” will have their rights read to them



and any questions answered by the BHS Social Work Services Case Therapist in the Emergency Department. The minor patient and applicant will be provided copies of the “Application by an Adult for the Admission of a Minor” and “Rights of Individuals Receiving Mental Health and Development Disability Services”.

When it is determined a patient on the BHS Inpatient Psychiatric Unit is a significant threat to other patients and/or staff and clinical interventions have failed, the patient rights may be restricted. The “Notice Regarding Restricted Rights of Individuals” must be completed according to instructions, a copy given to the patient, and a copy mailed to the patient’s previously identified “Individual Preference”.

SEE RELATED DOCUMENT(S):

State of Illinois Rights of Individuals Receiving Mental Health and Developmental Disability Services – FORM

<https://cadencehealth.ellucid.com/documents/view/2030>

State of Illinois Application for Voluntary Admission - FORM

<https://cadencehealth.ellucid.com/documents/view/2028>

Application by an Adult for the Admission of a Minor - FORM

<https://cadencehealth.ellucid.com/documents/view/2617>

Petition for Involuntary/Judicial Admission - FORM

<https://cadencehealth.ellucid.com/documents/view/2029>

Circumstances may arise in which we find it necessary to take other steps not specifically designated here. We reserve the right to use professional judgment to do so at our discretion.