

ANDREW M. CUOMO
Governor

ANN MARIE T. SULLIVAN, M.D.
Commissioner

CHRISTOPHER TAVELLA, Ph.D.
Executive Deputy Commissioner

MEMORANDUM

TO: New York State (NYS) Residential Treatment Facility (RTF) Providers

FROM: Donna Bradbury, Associate Commissioner, Division of Integrated Community Services for Children and Families
Dr. Matthew Perkins, Medical Director, OMH Children and Family Services

DATE: October 30, 2020

SUBJECT: Guidance, Updates and Consolidation: RTF Treatment and Documentation Standards, Visitation, Telemental Health Utilization, and Restraint Response during COVID-19 Emergency Period

This is to clarify, update and consolidate of the Office of Mental Health's COVID-19 guidance pertaining to RTFs. This communication will provide an update and clarification on the following subjects: treatment, visitation, documentation, telemental health, utilization review and use of restraint. Providers will be directed to OMH's [Infection Control Guidance for Reopening Public Mental Health System Sites](#) for recommendations for prevention of the spread of COVID-19 in the context of admissions, transfers, and visitation.

Effective the date of this communication the following guidance documents are rescinded:

- 3/21/20 Memorandum: RTF Visitation Guidance
- 4/4/20 Memorandum: RTF Provider Treatment Planning Standards During COVID-19 Emergency
- 4/13/20 COVID-19 Documentation Guidance for Children's Residential Treatment Facilities Regarding Emergency Response to COVID-19

New York State is in the midst of an evolving public health crisis, and guidance and recommendations continue to be updated. Providers should regularly review [OMH's Guidance Documents page](#) for updates.

I. Mental Health Treatment Standards- The following COVID-19 emergency period guidance is in effect.

During the COVID-19 declared state of emergency, Children's Residential Treatment Facility programs may modify their inpatient treatment programming as follows:

1. Programs should ensure that all therapeutic, rehabilitative, and recreational groups that align with appropriate social distancing requirements, of at least six feet, and other mitigation recommendations. If these requirements cannot be met, programs should cancel these group sessions and consider use of telemental health to deliver treatment and support services (see section III of this document.)
2. During in-person individual sessions, the clinician and patient should remain six feet apart.
3. Patients should be allowed to remain in their rooms during the day and should not be asked to remain in a shared setting. Programs should maximize the space patients can occupy while on the unit.
4. Programs should continue to provide, and increase where feasible, time for outside activities and recreation. Patients should be reminded to maintain at least six feet of distance from all other individuals, whether indoors or outside.
5. Each RTF must ensure that patients have easily available means to stay in contact with family and others to ensure that children and adolescents maintain communication with their family in the community. This includes ready access to phones, either through cellular or land lines. Additionally, patients who are deemed appropriate for the use of internet social media accounts should have the means to access them as needed. Every RTF must identify multiple ways for patients to communicate.

II. Visitation Guidance- The COVID-19 emergency period Memoranda: RTF Visitation Guidance is rescinded. RTF programs should follow the Department of Health's Health Advisory: All Residential Congregate Facilities and updated Infection Control Guidance for Reopening Public Mental Health System Sites regarding visitation.

III. Documentation Requirements for Treatment Plans and Treatment Progress during the Disaster Emergency Period- Previous COVID-19 emergency period documentation guidance is rescinded.

For new and existing Children's RTF patients during the disaster emergency period:

- Effective November 15, 2020, RTFs are expected to resume adherence to regulations pertaining to the completion of initial and comprehensive treatment plan reviews. By December 15, 2020, all patients in the program should have a treatment plan review conducted within the previous 30 days.
- Effective November 15, 2020, RTFs are expected to resume adherence to their previous Utilization Review procedures. All patients who were due for a utilization review by the Utilization Review Committee and did not have one during the previous suspension of this regulatory requirement must have these patient's utilization reviews completed by December 15, 2020.

- Treatment plans, assessments and progress notes may continue to be established via telemental health modality (see Admissions and Continuity of Care memo and Section III of this memo).
- With the exception of documentation pertaining to admission, signatures, including that of the qualified mental health staff person, patient, and the parent/guardian on required documentation may be obtained verbally and documented in the record.

III. Use of Video and Telephone Technology for Treatment of Patients - OMH Telemental Health Guidance for the COVID-19 emergency period remains in effect and is further clarified below.

If using a telemental health modality for delivering RTF service(s) regardless of the location of the RTF patient or the RTF staff, during the emergency period, the RTF must submit The Self-Attestation of Compliance to Offer Telemental Health Services, if they have not done so already. When completed, the self-attestation certifies that the RTF meets requirements to be authorized to deliver services via telemental health for a time-limited period, not to exceed the COVID-19 emergency period. Once the attestation is submitted, a claim for a patient day (or therapeutic leave day) in which any one service delivered by the RTF involved the use of a telemental health modality should include the claim modifier as indicated in Section 5: Billing Modifiers of the OMH Telemental Health Guidance.

Regardless of whether a Self-Attestation to deliver telemental health services is completed for the COVID-19 emergency period, in order for the RTF to provide services by professional RTF staff via telemental health after the COVID-19 emergency period, the RTF is required to follow the Streamlined Process to Permanently Add Telemental Health as an Optional/ Additional Service and submit the Attestation of Compliance for OMH Approval to Offer Telemental Health Services. The Streamlined Process to Permanently Add Telemental Health as an Optional/ Additional Service may be completed at any time.

IV. Restraint- Previous COVID-19 emergency period 14 NYCRR 526.4 regulation relief remains in effect and is further clarified below.

The requirements in 14 NYCRR 526.4 (Restraint and Seclusion) requiring a physician for the order, and the in-person, face-to-face examination of the patient for restraint, during the declared state of emergency, may temporarily be fulfilled by an order and an in-person, face-to-face examination by a licensed nurse practitioner or physician assistant.

Additionally, for the duration of the declared state of emergency, registered nurses (RNs) working on-site in NYS Children's RTFs may complete the in-person, face-to-face examination for a manual restraint procedure. In Children's RTFs, the on-site RN managing the child's care

can complete the face-to-face examination and review by telephone, with the attending physician or the physician's designated nurse practitioner or physician assistant. The RN will be authorized to take a verbal or electronic order for manual restraint from a physician, nurse practitioner, or physician assistant. If there are any medical or psychiatric concerns after the assessment and discussion, the ordering practitioner will be required to appear in-person at the facility to assess the patient.

NOTE: If the RTF is going to participate in the NYCRR 526.4 regulation relief described above, RTFs are expected to ensure that the education and training programs they developed to be in compliance with 14 NYCRR 526.4 regulations and guidance as well as 42 CFR Subpart G §483.350-§483.376 *Condition of Participation for the Use of Restraint or Seclusion in Psychiatric Residential Treatment Facilities Providing Inpatient Psychiatric Services for Individuals Under Age 21* are updated to incorporate the use of any new staff roles and responsibilities allowed by the emergency period regulation relief. It is anticipated that implementing this regulation relief would require an update to RTF policies, procedures, education and training programs to reflect new allowances in staff role(s.) Staff will be expected to be trained to carry out their new role(s) and responsibilities, including completion of documentation, in accordance with state and federal requirements.

V. Infection Control Guidance- Providers are directed to follow the updated Infection Control Guidance for Reopening Public Mental Health System Sites.