National Association for Behavioral Healthcare
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NATIONAL COUNCIL FOR BEHAVIORAL HEALTH

April 8, 2021

The Honorable James Frederick
Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health
Occupational Safety and Health Administration
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20010

Dear Mr. Frederick:

The undersigned organizations share a common interest in increasing access to and ensuring the quality of mental healthcare, including treatment that inpatient psychiatric facilities provide. We would like to work with the Occupational Safety and Health Administration (OSHA) to further these goals through thoughtful and well-informed policies aimed at ensuring the safety of patients and personnel in these healthcare settings.

Certain policies and implementation actions by a handful of OSHA regional offices in recent years have not aligned with other requirements that inpatient psychiatric facilities must implement to ensure the safety of patients as well as good quality of care. For example, one of the changes required by an OSHA regional office has been to fully enclose nursing stations ideally with plexiglass. This type of structure would prevent interactions between patients and staff that are critical for effective behavioral healthcare. In addition, this type of requirement sends the message to patients that they are troublesome and unwelcome. In another case, OSHA representatives recommended the use of personal items for agitated patients such as MP3 players with cords that would pose a suicide risk.

OSHA representatives have also issued citations and imposed abatements that interfere with clinical care decisions; for example, by suggesting alternative admissions criteria. There seems to be a growing trend of OSHA representatives reviewing patient records to assess clinical care and treatment decisions without any clinical or psychiatric background on which to base those determinations.

Another abatement that certain OSHA regional offices have imposed calls for posting a uniformed security guard at the entrances to inpatient psychiatric settings. We are concerned that the mere presence of this type of personnel would intimidate patients. Moreover, generally these guards are not trained in how to interact positively with psychiatric patients. This change would likely exacerbate any tense situations and further disrupt the therapeutic milieu of these settings. Instead, psychiatric facilities generally designate trained staff with safety and security responsibilities such as milieu managers, crisis intervention specialists, mental health technicians, or other safety or security officers.

Finally, another troubling requirement that some OSHA regional offices have imposed includes requiring psychiatric facilities to establish written agreements with local law enforcement agencies assuring that officers will stay with patients until assessment and admission are completed and disruptive patients are completely under control. This requirement to standardize the presence of law enforcement sends the message that psychiatric patients are criminals, instead of people with complicated mental health needs.

It assumes all individuals who may need acute mental healthcare are violent. This is not true. It also contradicts more effective policies and initiatives aimed at reducing law enforcement involvement in mental health crises. In addition, this approach exposes staff and patients to heightened risk because law enforcement officers usually lack training in how to interact with individuals experiencing a serious mental health condition in a clinical and therapeutic manner.

Although these determinations by OSHA regional offices were well-intentioned and aimed at ensuring the safety of the clinicians and staff who work in inpatient psychiatric facilities, these objectives must be implemented in ways that are consistent with and responsive to the special circumstances surrounding inpatient psychiatric care. Psychiatric settings employ clinicians and other staff who are specifically trained on how to manage agitated or aggressive and sometimes unpredictable behavior. The safety of patients as well as caregivers does not have to be at cross-purposes.

We recognize that regulatory entities face many difficulties in developing a consistent set of requirements intended to reduce hazards in the context of different treatment approaches and services offered by individual facilities, different patient populations, and various state regulatory requirements. Therefore, we recommend that OSHA establish a collaborative process to gather input from leading psychiatric hospitals and units, state mental health agency officials, psychiatric providers, employee representatives, and representatives of mental healthcare consumers and their families regarding effective practices for ensuring the safety of inpatient psychiatric facilities without compromising the clinical care of patients. This process should be focused on developing specific guidance for OSHA regional offices to ensure that implementation of safety requirements does not inadvertently result in increased risk of violence in these settings and lower quality of care for a very vulnerable patient population.

We would be happy to meet with you as soon as possible to address these important issues and discuss our recommendations. Please contact Kirsten Beronio at kirsten@nabh.org or 202-680-3095 to find a mutually convenient time for representatives of our organizations.

Thank you for your consideration.

Sincerely,

National Association for Behavioral Healthcare

National Association of State Mental Health Program Directors

National Alliance on Mental Illness

National Council for Behavioral Health