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Martha W. King
Executive Director

Record of Variance Action

This variance allows the Department a six-month period of time, commencing on February 14, 2017 and ending on August 14, 2017, to house people in custody ages 19 through 21 in Enhanced Supervision Housing (ESH).

Type of Variance: Limited

Date on which variance will commence: February 14, 2017

Time period, if any: Six months, ending August 14, 2017¹

Minimum Standard for which Variance is Granted: 1-16(c)(1)(ii)

Date on which Board of Correction first approved variance (for renewals only): July 12, 2016²

Requirements imposed as conditions on variance during its pendency:

1. During the pendency of this variance, each request for approval of a placement of a young adult in ESH must be in writing and specify the reason(s) why a less restrictive housing setting is not a safe option. If the placement is to include the use of a restraint desk, the request for approval must include why ESH without restraint desks is not a safe option. The Chief of Department, or designee, must also specify his reason(s) for approving or disapproving the request for ESH placement. If the placement is to include the use of a restraint desk, the Chief or his designee must, separately, approve or disapprove this use and specify his reason(s) for approving or disapproving the use of a restraint desk. The request for approval and the Chief's or designee's approval or disapproval thereof shall be sent within 24 hours to the person who is the subject of the request, NYC Health + Hospitals, and the Board.

¹ The Board plans to consider any request for renewal at its July 11, 2017 public meeting.

² This variance was last in effect October 11, 2016 – January 11, 2017.

2. A young adult can only be placed in the ESH Entry housing area if the person has recently committed and/or participated in an actual or attempted slashing or stabbing, or engagement in activity that caused serious injury to an officer, another person in custody, or any other person and the use of a Restraint Desk is the least restrictive option necessary for the safety of others.
3. A young adult can only be placed in ESH Level 1 if the recommendation from the ESH Entry Unit assessment recommended continued Level 1 placement and the use of a restraint desk continues to be the least restrictive option necessary for the safety of others.
4. During the pendency of this Variance, the Department shall provide the Board with a monthly, public report on the implementation of the foregoing conditions, which shall include the following information:
 - a. For each request for approval of a placement of a young adult in ESH, the reason for placement; the level of placement recommended; whether the placement and placement level was approved or disapproved by the Chief of Department or designee; and the housing category in which the young adult was housed immediately prior to placement (e.g., GP, SCHU, TRU, Secure, ESH, REST, APU);
 - b. A summary of young adults in ESH. The summary shall include:
 - i. The average daily population of young adults held, overall and by ESH level;
 - ii. The average length of stay of young adults held, overall and by ESH level;
 - iii. The number of young adults placed, by ESH level;
 - iv. The number of young adults released, by ESH level;
 - v. The number of young adults who had a previous placement(s) during their current incarceration in ESH, TRU, SCHU, or Secure, by ESH level;
 - vi. The number of young adults who met the criteria for a 30- or 45-day review;
 - i. The number of young adults who received such review; and
 - ii. The number of such reviews of young adults that resulted in placement in an alternative housing area or new ESH level.³

The Department shall provide the report on the tenth business days of March, April, May, June, and August and the fifth business day of July. Individual-level data used to generate the report shall be shared directly with Board staff.

5. The Department shall develop comprehensive metrics and a plan for its ongoing data tracking, monitoring, and evaluating the implementation of ESH for young adults within the context of the its continuum of restrictive housing options. Final metrics and a monitoring and evaluation plan shall be submitted to the Board and presented by the Department at the May 9, 2017 public meeting. The metrics and plan developed shall be in line with national best practices and address the Department's compliance with Minimum Standards and the conditions herein.

³ Timeliness is determined by the periodicity of reviews and determinations set forth in the relevant Department directive or draft directive.

Two weeks prior to the Board's July 11, 2017 public meeting, the Department shall submit an analysis of ESH for young adults that will include but not be limited to compliance with the Department's monitoring and evaluation plan presented in May and its evaluation of ESH for young adults using the metrics presented in May.

6. During the pendency of this Variance, on at least a monthly basis, the Department shall provide the Board access to all documentation considered in each ESH placement and review decision for young adults. This includes, but is not limited to, all records reviewed or created by ESH adjudication, Health + Hospital's placement review, the Chief's reviews, the ESH Entry Unit Review Committee, and the ESH 45-day periodic review. On a monthly basis, the Department shall transmit a list of all ESH placements and reviews.

The Department shall provide the documentation by the tenth business days of March, April, May, July, and August and the fifth business day of June.