



## New York City Department of Health and Mental Hygiene

### Notice of Public Hearing and Opportunity to Comment on a Proposed Amendment of Article 11 of the Health Code

**What are we proposing?** The New York City Department of Health and Mental Hygiene (Department) is proposing the Board of Health amend Article 11 of the Health Code, lowering the age of required reporting of first-episode psychosis, adding race and ethnicity to the list of required information when reporting first-episode psychosis, and removing the time limit that the Department can hold information of those reported with first-episode psychosis.

**When and where is the hearing?** The Department will hold a public hearing on the proposed rule on The Department will hold a public hearing on the proposal at 2 p.m. on July 12, 2018. The hearing will be held at:

New York City Department of Health and Mental Hygiene  
Gotham Center  
42-09 28th Street, 14th Floor, Room 14-43  
Long Island City, NY 11101-4132

**How do I comment on the proposed rules?** Anyone can comment on the proposed rules by:

- **Website.** You can submit comments to the Department through the NYC rules Web site at <http://rules.cityofnewyork.us>
- **Email.** You can email written comments to [resolutioncomments@health.nyc.gov](mailto:resolutioncomments@health.nyc.gov)
- **Mail.** You can mail written comments to

New York City Department of Health and Mental Hygiene  
2 Gotham Plaza – 42-09 28<sup>th</sup> Street, CN 31  
Long Island City, NY 11101-4132

- **Fax.** You can fax written comments to New York City Department of Health and Mental Hygiene at 347-396-6087.
- **By speaking at the hearing.** Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak. You can sign up before the hearing by calling 347-396-6078. You can also sign up in the hearing room before the hearing begins on July 12, 2018. You can speak for up to three minutes.

**Is there a deadline to submit written comments?** Written comments must be received on or before 5:00 p.m. on July 12, 2018.

**What if I need assistance to participate in the hearing?** You must tell the Department's Office of Legal Affairs if you need a reasonable accommodation of a disability at the hearing. You must tell us if you need a sign language interpreter. You can tell us by mail at the address given above. You may also tell us by telephone at 347-396-6078. Advance notice is requested to allow sufficient time to arrange the accommodation. Please tell us by June 28, 2018.

This location is wheelchair accessible.

**Can I review the comments made on the proposed rules?** You can review the comments made online on the proposed rules by going to the website at <http://rules.cityofnewyork.us/>. A few days after the hearing, copies of all comments submitted online, copies of all written comments, and a summary of oral comments concerning the proposed rule will be available to the public at the Department's Office of the General Counsel.

**What authorizes the Department of Health and Mental Hygiene to make these rules?** Sections 556, 558 and 1043 of the City Charter authorize the Department to make this proposed rule. This proposal was not included in the Department's Regulatory Agenda for 2019 because the Department did not anticipate this amendment at that time.

**Where can I find the Department's rules?** The rules of the Department are in Title 24 of the Rules of the City of New York.

**What laws govern the rulemaking process?** The Department must meet the requirements of §1043 of the City Charter when creating or changing rules. This notice is made according to the requirements of City Charter §1043.

### **Statement of Basis and Purpose**

#### *Statutory Authority*

These amendments to the Health Code are promulgated pursuant to §§ 558 and 1043 of the Charter. Sections 558(b) and (c) of the Charter empower the Board of Health to amend the Health Code and to include in the Health Code all matters to which the authority of the Department of Health and Mental Hygiene (the "Department" or "DOHMH") extends. Section 1043 grants the Department rule-making authority.

#### *Background*

The Department is responsible under the Charter for supervising matters affecting the health of New Yorkers. This includes supervision of the reporting and control of chronic diseases and conditions hazardous to life and health.<sup>1</sup> The Department also has specific responsibilities with regard to mental health. Pursuant to section 552 of the Charter, the Department's Division of Mental Hygiene (MHy) is the local government unit (LGU) for the City of New York under New York State Mental Hygiene Law, and the executive deputy commissioner who directs the Division is the City's director of community services. As the LGU, MHy is responsible for administering, planning, contracting, monitoring, and evaluating community mental health and substance use services within the City of New York. It also is charged with identifying needs and planning for the provision of services for high-need individuals, such as persons with schizophrenia and other psychotic illnesses. In 2013, the Board of Health amended the Health Code to require hospitals to report when persons between the age of 18 and 30 are first admitted with a psychotic illness so that DOHMH can make appropriate linkages to services through the NYC Supportive Transition and Recovery Team (NYC START). The Department of Health and Mental Hygiene has successfully implemented hospital reporting with time-limited linkage to care for individuals 18 – 30 years of age with a first-episode psychosis hospital admission. However, in order to best account for and intervene in episodes of early psychosis and address health disparities, it is necessary to expand the age criteria for the reporting requirement to those aged 16 and over, collect data on race and ethnicity, and retain collected information past the current 30 day time limit.

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<sup>1</sup> Charter §556(c)(2).

### *Current Linkages to Care for First-Episode Psychosis*

When the Health Code was amended in 2013 to address inadequate linkages to care for people with first-episode psychosis, we pointed out that New Yorkers with psychotic illnesses often do not seek care or become disengaged from care in part due to:

- Fragmentation in the current mental health treatment system (patients being lost to care in transitions from hospitalization);
- Exchange of patient information unsupported by technology infrastructure or current administrative practices;
- Mental health treatment providers lacking resources to ensure links are established between patients and community supports; and
- Challenges such as stigma, denial, fear, lack of support, and confusion related to benefits and insurance

While NYC START has improved these linkages to care for those who are reported with first-episode psychosis and accept services, we seek to further amend the Health Code to improve the health of all New Yorkers with first-episode psychosis. In particular, there are three areas that need to be addressed in order to more fully account for the needs of individuals with psychosis:

1. Currently, the Department may only retain identifiable information of individuals reported with first-episode psychosis for 30 days unless they accept care through NYC START, making psychosis the only reportable illness that places a limit on the amount of time the information can be seen by the Department. After 30 days, this information must be de-identified and cannot be used to follow up with the individual or to identify possible re-reporting. Given the many reasons that people with first-episode psychosis disengage from care, it is necessary to retain this information past 30 days to ensure that outreach can continue to those who have been unreachable during the initial 30-day period, to comprehensively assess the needs of communities, and to work with providers to develop successful interventions.
2. DOMMH estimates that approximately 2,000 new cases of psychotic illness develop each year in New York.<sup>2,3</sup> Our analysis of NYC hospital admissions found that 6 % of probable first-episode admissions occurred among persons between 16 and 17 years of age.<sup>4</sup> There has been an expansion in the availability of specialized services for individuals 16 to 30 years of age. However, due to restrictions in the Health Code limiting the reporting age to between 18 and 30, we do not currently account for individuals who develop first-episode psychosis before the age of 18.
3. Race and ethnicity are currently not among the list of required information that hospitals must identify when making a report of first-episode psychosis. Because there are racial disparities in the diagnosis and treatment of psychotic disorders, however, this information is especially pertinent to collect and utilize to improve interventions and address health inequity.<sup>5</sup>

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<sup>2</sup> Kirkbride JB et al. *Int J Epi.* 2009; 38-1255-64.

<sup>3</sup> Bladwin P et al. *Schiz Bull* 2005 31;3, 624-38.

<sup>4</sup> DOHMH internal analysis of NYC hospital admissions in 2009 for probable first-episode psychosis among 16 – 29 year olds.

<sup>5</sup> Schwartz, R et al. *World J Psychiatry.* 2014 4(4): 133-140

### *Proposed Rule*

To improve interventions, linkages to care, and outcomes for New Yorkers experiencing first-episodes of psychosis, the Department proposes that the Board of Health amend Article 11 of the Health Code. The proposed changes would facilitate participation in early intervention services by requiring hospitals to report when individuals over 16 and under 31 years of age are admitted with a first-episode of psychotic illness. The proposed changes would further facilitate the creation of a database of reported cases of first-episode psychosis that would permit the Department to monitor trends of the illness.

Evaluating these trends can be used to:

- Develop targeted, culturally-competent interventions in the NYC START program
- Measure outcomes of first-episode psychosis care, and thereby direct more efficient interventions to health care institutions, health care providers and people with psychosis.

Reporting will continue to be required within 24 hours of admission and will include hospital name, patient name, age, gender, address, telephone, date of admission, insurance type, diagnosis, race, and ethnicity. All patient information reported to the Department will be kept confidential and will not be shared with anyone other than the patient or treating provider.

“Shall” and “must” denote mandatory requirements and may be used interchangeably in the text below, unless otherwise specified or unless the context clearly indicates otherwise.

New text is underlined; deleted text is in [brackets].

**RESOLVED**, that section 11.04 of Article 11 of the New York City Health Code, as set forth in Title 24 of the Rules of the City of New York, be amended to read as follows:

#### **§11.04 Report of First-Episode Psychosis.**

(a) *Required reports.* A hospital must report to the Director of the Division of Mental Hygiene of the Department by telephone or in an electronic transmission format acceptable to the Department, the admission of any person [over 18] 16 years of age or older and younger than [30] 31 years of age with a psychosis diagnosis as defined in paragraph (1) of this subdivision within 24 hours of such admission. A report shall not be required if such person was previously hospitalized with a psychosis diagnosis as defined in paragraph (1) of this subdivision when he or she was [over the age of 18] 16 years of age or older.

(1) *Psychosis diagnosis* shall mean:

- (A) Schizophrenia (any type);
- (B) Psychosis NOS (not otherwise specified);
- (C) Schizophreniform Disorder;
- (D) Delusional Disorder;
- (E) Schizoaffective Disorder;

- (F) Brief Psychotic Disorder;
- (G) Shared Psychotic Disorder;
- (H) Other Specified Schizophrenia Spectrum and Other Psychotic Disorder;
- (I) Unspecified Schizophrenia Spectrum and Other Psychotic Disorder

(2) Reports must include patient's:

- (A) Full Name
- (B) Gender
- (C) Date of birth
- (D) Address
- (E) Telephone
- (F) Hospital admission date
- (G) Diagnosis
- (H) Insurance type
- (I) Race
- (J) Ethnicity

(b) *Reports to be confidential.* [The Division of Mental Hygiene will only use the information reported to it to offer care and services to the patient who is the subject of the report. Identifying information shall be confidential and shall not be subject to inspection by persons other than authorized personnel of the Division of Mental Hygiene. Such information may not be disclosed without the consent of the person who is the subject of such report or someone authorized to act on such person's behalf, except pursuant to a federal or state law that compels such disclosure. The director may not keep patient-identifying information reported to him or her for more than thirty days. Within 31 days of receiving information reported to it pursuant to this section, the Division shall cause such information to be destroyed.]

Identifying information reported to the Department pursuant to this section shall be confidential according to the confidentiality provisions of §11.11 of this Code and shall not be subject to inspection by persons other than authorized personnel of the Division of Mental Hygiene. Other than to such authorized personnel, such information may not be disclosed without the consent of the person who is the subject of such report or someone authorized to act on such person's behalf, except pursuant to a federal or state law that compels such disclosure.

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS  
253 BROADWAY, 10<sup>th</sup> FLOOR  
NEW YORK, NY 10007  
212-788-1400**

**CERTIFICATION / ANALYSIS  
PURSUANT TO CHARTER SECTION 1043(d)**

**RULE TITLE: Reporting of First Episode Psychosis**

**REFERENCE NUMBER: DOHMH-94**

**RULEMAKING AGENCY: Department of Health and Mental Hygiene**

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Sarah Joseph Kurien  
Mayor's Office of Operations

June 1, 2018  
Date

**NEW YORK CITY LAW DEPARTMENT  
DIVISION OF LEGAL COUNSEL  
100 CHURCH STREET  
NEW YORK, NY 10007  
212-356-4028**

**CERTIFICATION PURSUANT TO  
CHARTER §1043(d)**

**RULE TITLE:** Reporting of First Episode Psychosis

**REFERENCE NUMBER:** 2018 RG 065

**RULEMAKING AGENCY:** Board of Health

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN  
Acting Corporation Counsel

Date: June 1, 2018