

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE DEPARTMENT OF COMMUNITY HEALTH**

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IN THE MATTER OF:

Docket No. 2011-33967 MHT

██████████,
Appellant

HEARING DECISION AND ORDER

This case is before the Michigan Administrative Hearing System pursuant to the provisions of MCL 330.1407, and Chapter 4 of the Administrative Procedures Act of 1969, as amended, MCL 24.271 *et seq.*

After due notice, a telephone hearing was held on Thursday, ██████████. Dr. ██████████, Staff Psychiatrist, and ██████████, Transfer Coordinator, at the Center for Forensic Psychiatry, appeared for the Department's agent Center for Forensic Psychiatry. The Appellant, ██████████, who was located at the Center for Forensic Psychiatry, was made aware of the hearing by the Center staff, he indicated he did not wish to attend, and instead desired to cancel the hearing.

██████████, Social Work Supervisor and Transfer Coordinator at ██████████ Center, appeared as representative for ██████████ Center.

ISSUE

Did the Department properly transfer the Appellant from the ██████████ Center to the Center for Forensic Psychiatry?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. Prior to ██████████, the Appellant was a resident of the ██████████ Center pursuant to a Not Guilty by Reason of Insanity (NGRI) court order. (Exhibits 1-3).
2. On ██████████, Appellant who has a history of elopement and elopement attempts, attempted to elope from ██████████ Center. (Exhibit 1).

3. On ██████████, the ██████████ County Community Mental Health approved the transfer. (Exhibit 2).
4. The Department approved the order of transfer ██████████, noting Appellant “attempted to elope from hospital and continues to make threats to elope.” (Exhibit 3).
5. On ██████████, the Appellant was given written notice of the proposed transfer. (Exhibit 4).
6. On ██████████, the Appellant requested an Administrative Hearing to appeal the transfer. (Exhibit 4).
7. On ██████████, Appellant was transferred to the Forensic Center.

CONCLUSIONS OF LAW

A patient in a department hospital may be transferred to any other hospital, or to any facility of the department that is not a hospital, if the transfer would not be detrimental to the patient and if both the community mental health services program and the department approve the transfer.

MCL 330.1407

Rule 330.4011 Transfer between state hospitals.

(1) A patient may be transferred between hospitals, including the University of Michigan neuropsychiatric institute or other facilities of the department which are not hospitals, for administrative reasons or for good and sufficient clinical reasons when approved by the department. Approval by the department shall be expressed by an order of transfer, a copy of which shall be forwarded to the director of each hospital involved. Prior to approval or denial of the transfer, the department shall consult with the contractually responsible county community mental health program. A request for a transfer may be submitted by a hospital director, a patient, or other interested person.

(2) Before an approved transfer is acted upon, the director of the hospital in which the patient is currently residing shall notify in writing, not less than 7 days prior to transfer, the patient and his guardian or his nearest relative and up to 2 other persons designated by the patient, except if the transfer is necessitated by an emergency as determined by the hospital director and documented in hospital records. Under emergency circumstances, the hospital director shall effect a transfer as

soon as necessary and issue the appropriate notices not more than 24 hours after transfer.

(3) The notification period of not more than 7 days prior to transfer may be reduced if the patient or his guardian or nearest relative approves the transfer in person, by telephone, or in writing, and this approval is documented. Written approval shall be obtained as soon as administratively possible.

(4) Notice of transfer by a hospital director shall inform the patient and his guardian or nearest relative of the right to object to the transfer. Upon receipt of a written objection, an appeal hearing shall be held promptly, under procedures established by the department. If an objection is made; transfer shall be delayed until a ruling of the appeal hearing indorses it, unless an emergency as determined and documented by the hospital director necessitates an immediate transfer. An emergency transfer is revocable by decision of the director of the department or by order of the appeal referee.

MAC R. 330.4001

Appellant resided at the ██████████ Center in ██████████, pursuant to an NGRI court order. (Exhibits 1-3). On ██████████, the Appellant who has a history of elopement and attempted elopement, attempted to elope from the ██████████ Center. (Exhibit 2). The result of the incident produced a request to transfer Appellant from the ██████████ Center to the Center for Forensic Psychiatry (Forensic Center) for a more secure setting.

On ██████████, ██████████ County Community Mental Health approved Appellant's transfer to the Forensic Center based on his attempt to elope from the hospital and his continued threats to elope. (Exhibits 2 & 3).

On ██████████, the Department approved the Appellant's transfer from the ██████████ Center to the Forensic Center. (Exhibit 3). On ██████████, the Appellant was given written notice of the proposed transfer. (Exhibit 4).

On ██████████, the Appellant requested an Administrative Hearing to appeal the transfer. (Exhibit 4). During the hearing, Ms. ██████████ testified that the Transfer Request Summary accurately reflects the reasons for the transfer to the Forensic Center. Ms. ██████████ stated Appellant was an NGRI patient at ██████████. He had a history of elopement at ██████████ Center, as well as, at other facilities in the past. This transfer request was the result of a recent attempt by the Appellant to elope at ██████████ Center. Appellant was considered to be a higher risk and it was felt that he needed a more secure setting.

Ms. ██████████ testified Appellant was transferred to the Forensic Center on ██████████. Dr. ██████████ testified that she agreed with the transfer. Dr. ██████████ stated the Appellant had a

severe and chronic mental illness. He was a risk for elopement and was mentally unstable. As stated above, the Michigan Mental Health Code allows the transfer of a patient from one inpatient facility to another if it would not be detrimental. The documents presented at the hearing show that all the paperwork required for transfer by law was fulfilled. Furthermore, there was no demonstration that the transfer was detrimental to the Appellant.

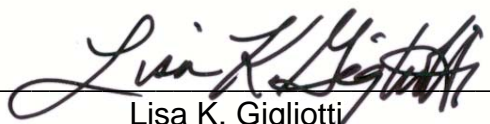
The evidence of record demonstrated sufficient reasons for the Appellant's transfer to the Center for Forensic Psychiatry, including why the transfer would not be detrimental to the Appellant. The evidence of record demonstrated that the proposed transfer met the requirement of Michigan statute and rule.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that the Department of Community Health properly proposed the transfer of the Appellant from the [REDACTED] to the Center for Forensic Psychiatry.

IT IS THEREFORE ORDERED THAT:

The Department's decision is AFFIRMED.



Lisa K. Gigliotti
Administrative Law Judge
For Olga Dazzo, Director
Michigan Department of Community Health

cc:

[REDACTED]

Date Mailed: 9/22/2011