

Die nachstehende Übersetzung ist nichtamtlich. Es kann keine Haftung für deren Richtigkeit übernommen werden. Maßgebend ist allein der Wortlaut der amtlichen Fassung des MRVG NRW i.d.F. des Gesetzes vom 05. April 2005 nebst Durchführungsverordnung i.d.F. der Verordnung vom 11. Dezember 1987 (DV MRVG)

Classification number 2128

**Implementing Regulation
Concerning the Hospital Treatment Enforcement Act (IR-HTEA)**

of 4 October 1986 (fn 1)

On the base of § 24 of the Hospital Treatment Enforcement Act - HTEA - of 18 December 1984 (OG. NW. 1985 p. 14) (fn 2) it is hereby ordered – with respect to § 1 para. 1 plus §§ 9 and 12 in agreement with the Minister of Justice - after hearing the Committee for Work, Health, Social Affairs and Matters of the Expellees and Refugees of the Land Parliament:

§ 1

Units of treatment

- (1) The institutions should be classified by focus of treatment, be it general psychiatry, behavioural disorders or disorders of the personality, alcohol abuse, dependency on medications and drugs plus, in accordance with the focus of treatment, persons under their 24th year of life.
- (2) Units of treatment shall be formed for the foci of treatment in each institution, where psychotherapeutic, social therapeutic, occupational and work therapeutic treatment plus the supply with medications will be ensured in particular. Within their tasks the institutions shall carry out in particular measures with an orientation towards talks and personal activity.
- (3) By way of closed enforcement, partially open and open enforcement measures the patients shall be enabled to live a settled life in the community. Decentralised transitory institutions shall be kept ready for the open enforcement measures to support the integration of patients in their social milieu after termination of the commitment. Such institutions may be affiliated with a psychiatric hospital.

§ 2

Manning

- (1) The right experts shall cooperate in the institution, in particular capable medical practitioners, qualified psychologists, social workers and social educators, occupational therapists and work therapists, nursing personnel and educational assistants.
- (2) The experts shall be employed in a way that the patients are given the therapeutic, educational, social and practical assistance required under the objectives of the § 1 HTEA. Requirements for the psychotherapeutic treatment and the level of training of the patients must be considered in particular.
- (3) The authority responsible for the institution has to guarantee the further training of the experts.
- (4) The authority responsible for the institution shall define kind and number of the experts by the tasks of the institution, the requirements for treatment and care of the patients plus the necessary

expenditure for safety measures.

§ 3

Buildings and Technical Equipment

(1) The institution has to keep at least common rooms, visitors' rooms, treatment rooms and bedrooms separate from each other. Bedrooms should be equipped with a complete bathroom, but at least with a washbasin. Toilets and showers must be assigned to them. The bedrooms must be suitable for keeping the patients' objects in the sense of § 5 para. 1 and 3 HTEA. Common-rooms may be used for both leisure activities or to take meals.

(2) Each common-room should respond to the communication needs of 12 people at the most, bedrooms to the use of up to 3 persons. Making due consideration for treatment and safety requirements, group needs and individual needs the rooms should nevertheless be furnished in a homely way.

(3) Treatment places must be classified by function for group therapy and individual therapy plus specific tasks. The necessary equipment and institutes for a psychiatric examination, psychological diagnosis and treatment of the patients shall be kept ready.

(4) The safety measures shall satisfy the requirements for the specially safeguarded, the closed and the eased commitment.

§ 4

Information of Patients

(1) Rights and duties of the patients in accordance with §§ 4 to 16 and 18, 19 and 21 HTEA and in accordance with the provisions of this regulation shall be published in the rules of the house or in a separate information brochure in easily understandable wording. The information material shall be handed out to the patient at the time of his/her admission.

(2) The admitting medical practitioner shall be responsible for the verbal information. He/she will also be the one who informs the trust person of the patient about the admission.

(3) Information in writing or provided verbally shall cover appeals and remedies. The options of addressing the Appeal Committee of the Landschaftsverband and/or the Committee on Petitions of the Land Parliament plus raising a petition for administrative review shall be pointed out in the same manner.

§ 5

Correspondence, Parcels, Newspapers

(1) The medical practitioner in charge of the treatment shall prescribe any and all inspection of correspondence, telegrams, parcels, small parcels, newspapers and magazines. The expert in charge with the execution shall inform the other experts assisting in the treatment of the patient and the management of the institution about the findings from the inspection, inasmuch as this will be imperatively required for the treatment or for reasons of a settled life of cohabitation in the institution or the protection of the general public. Inasmuch as this will be necessary to

prevent or pursue criminal offences or breaches of administrative rules, findings from the inspection may be communicated to those authorities of the Land competent for the completion of these tasks.

(2) Prior to any intervention in accordance with § 6 para. 2 HTEA the necessity for it shall be reviewed. The same shall be restricted by content and in time to the least possible degree discussing it with the patient. He/she must be informed about the possible remedies available to him/her.

(3) The required reasons given in accordance with § 18 para. 1 sentence 1 HTEA shall state in detail the facts, balancing of interests plus kind, scope and necessity of the intervention.

(4) Letters, telegrams, parcels and small parcels, which have been addressed to the patient and stopped shall be returned to the sender unless they contain demands to commit criminal offences or tools to escape from the institution. Periodical newspapers and magazines may be destroyed after the expiry of 6 weeks, provided the reason for the stoppage will still exist at such time.

§ 6

Visits, Telephone Calls

(1) Visiting hours shall be instituted on a daily basis for a minimum duration of 2 hours. They should be offered both in the afternoon and the earlier evening hours.

(2) Times for telephone calls shall be allowed on a daily basis by the rules of the house at least during the general business hours and in the early evening hours. The duration of telephone call may be restricted by the rules of the house.

(3) Inasmuch as the requirements of treatment and care plus settled life of cohabitation permit, public phones should be installed in the closed wards.

(4) In case a visit or telephone call needs to be monitored, this may not obstruct the visit or the telephone call. § 5 para. 1 to 3 shall be applied correspondingly.

§ 7

Religious Practise

(1) Compelling reasons for enforcement measures in accordance with § 11 para. 2 HTEA are in particular reasons in the context of the illness that required the commitment, a concrete suspicion of the intent to escape or the danger of a substantial disturbance of the event.

(2) The exclusion shall be restricted to one event. § 5 para. 2 and 3 apply as appropriate.

§ 8

Dividing of the Own Money, Bridging Allowance

(1) The pocket money for the head of the household is at least 30 percent of the standard rate of the state welfare assistance. Income from a reward for work is used by 50 percent; income from earned wages by 20 percent to build up the pocket money and, upon request of the patient, shall

be invested to accrue interest. Otherwise they have to serve in equal shares the purpose mentioned in § 12 para. 2 sentence 2 HTEA until the amounts required for such purpose have been obtained.

Further surpluses from own money must be invested for the patient with interest accruing.

(2) The bridging allowance shall be used in a way that it guarantees the necessary living expenses of the respective patient and that of those who are entitled to maintenance at least during the first three months after their discharge. Inasmuch as the conditions of § 1 para. 3 HTEA have been fulfilled, it will be possible to pay out the bridging allowance at the time of discharge also to a probation officer or another office responsible for the care. The same shall be obligated to keep the money apart from their own assets.

§ 9

Measures Easing the Commitment

(1) Measures easing the commitment shall be arranged for and fashioned in a way as to allow a reduction in the restriction of liberty required by the enforcement at the earliest point in time possible. Restrictions should be gradually removed in support of the patient's sense of cooperation and responsibility and his/her later integration under standard conditions of life.

(2) Measures easing the commitment may also be granted to settle personal, family, legal or business matters or for other important reason serving the objectives of the § 1 para. 1 HTEA.

(3) Any measure easing the commitment may be combined in particular with the instruction,

- a) to subordinate himself/herself under the supervision of another person,
- b) to obey orders with respect to residence and ways of behaving outside of the institution and
- c) to return to the institution or to report at a different location at defined times.

(4) The medical director of the institution has the authority to decide about measures easing the commitment.

§ 10

Rules of the House

(1) The rules of the house shall make consideration for the tasks as provided for in the organisation chart.

(2) The rules of the house shall include in particular provisions with respect to the

1. procedure in compliance with § 6 HTEA,
2. time and duration of visits plus the procedure in compliance with § 7 para. 2 HTEA,

3. use of radios, televisions and tape recorders, telephones plus the procedure in compliance with § 7 para. 4 HTEA,
4. dealing with objects of the institution, use of vocational training and occupational institutions plus institutions for leisure time activities and sports,
5. use and keeping of personal belongings,
6. times of rest,
7. visiting times of the medical practitioners and other experts of the institution, the authority responsible for the institution and the authority of the Land,
8. rights and duties of the patient, in particular with respect to hygiene, domestic tasks, participation in therapeutic and leisure time events and contacts in the wards plus with respect to
9. application and approval procedures for measures easing the commitment.

(3) The rules of the house shall also specify the times for paying out the pocket money. A minimum of two periods per week shall be provided for. The payment to the patient shall be aligned with the requirements of his/her treatment and care.

(4) Besides the rules of the house rules of the ward and comparable arrangements are permissible only under the condition that they have come into being in compliance with § 17 HTEA being in no contradiction with the provisions of the rules of the house.

§ 11 Special Safeguards

(1) Measures in compliance with § 19 HTEA are permissible, whenever the restrictions, as provided for in the Act, appear to be insufficient to ensure a settled life of cohabitation in the institution. Several measures may be ordered at the same time when there is no other way to turn away the danger.

(2) Any safeguard may be kept up to the extent and for the time only where this will be required for the purpose. The continuation of each individual measure shall be reviewed every three days at the latest, for measures in compliance with § 19 para. 3 HTEA at least once per day.

(3) The medical director of the institution has the authority inasmuch as the participation of the authority responsible for the institution has not been prescribed (§ 19 para. 2 sentence 2 HTEA) or he/she has failed to reserve such a decision in general or in the individual case for himself/herself.

§ 12 (fn 3) Admission

(1) The enforcement authority addresses the admission request to the Landschaftsverband that is

competent in accordance with the organisation chart (enclosure). Copies of the court order with reasons, certificate of enforceability and medical expertise shall be enclosed with the admission request. Should the copy of the full court order still not be available at the time of admission then the same must be forwarded without undue delay. (Enclosure)

(2) The Landschaftsverband sends the admission request with enclosures to the institution, which has to admit the patient notifying the enforcement authority.

(3) Prior to the admission in another institution than the one earmarked in the organisation chart the enforcement authority shall bring about the agreement of the participating institutions and, in case of an admission in the institution of the other Landschaftsverband, the agreement of the Landschaftsverbände as well.

(4) Should the patient be admitted to another institution, which is subordinate to the supervisory authority of another Land, then the Minister of Justice in cooperation with the Minister for Work, Health and Social Affairs shall bring about the agreement of the supervisory authority of the respective Land.

§ 13

Transitional Provision

In case any institution that is in operation, under construction or in a cleared-to-be-built planning state at the time of this regulation entering into force fails to comply with the minimum requirements of § 3, requires the implementation of the necessary action with the approval of the Minister for Work, Health and Social Affairs. The adaptations to individual requirements shall be completed before 31 Dec. 1990. The time period may be extended for important reason.

§ 14 (fn 5)

Coming into Force, Ceasing to be in Force

This regulation comes into force on the day after its promulgation (fn 4). It ceases to be in force with expiry of the 31st day of December 2008.

The Minister
for Work, Health and Social Affairs
of the Land of North Rhine-Westphalia

Note

Restitution of the Regulation Status

(Article 270 of the Second Time Limitation Act of 5 April 2005 (OG. NRW. p. 274))

The ordinances enacted or amended by this Act may be altered on grounds of the pertinent authorisations for regulations by way of an ordinance.

- Fn 1** OG. NW. 1986 p. 668, amended by Ordinance of 11 Dec. 1987 (OG. NW. 1988 p. 55);
Article 84 of the Second Time Limitation Act of 5 April 2005 (OG. NRW. p. 274),
entered into force on 28 April 2005.
- Fn 2** SAO. NW. 2128.
- Fn 3** § 12 amended by Ordinance of 11 Dec. 1987 (OG. NW. 1988 p. 55); entered into
force on 13 February 1988.
- Fn 4** OG. NW. issued on 10 November 1986.
- Fn 5** § 14 newly worded by article 84 of the Second Time Limitation Act of 5 April
2005 (OG. NRW. p. 274); entered into force on 28 April 2005.

Copyright 2008 by the North Rhine-Westphalian Ministry of the Interior

Martin Bindhardt B.A. (CDN) has translated this Implementing Regulation Concerning the Hospital Treatment
Enforcement Act (IR-HTEA) into the English language.
