



Dear Mrs.  
Chairman of the Board of Directors  
of the Local Health Unit of *Baixo  
Alentejo, E.P.E.*  
Rua Dr. António Fernando Covas  
Lima  
7801-849 *Beja*

*Your Ref.*

*Your Communication*

*Our Ref.*

*Visit no. 17-2017*

## RECOMMENDATION NO. 13/2017/NPM

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### I

Under the provision enclosed in the article 19, paragraph b), of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, I recommend you, with a view to improving the conditions of internment of the Department of Psychiatry and Mental Health of the Local Health Unit of *Baixo Alentejo*, the following measures:

- a) Appropriate drafting and dissemination of internal written instructions on the application of restrictive measures in accordance with the guidelines of the General-Directorate for Health in this regard, in particular for psychiatric and emergency services;
- b) Formalization of the list of therapeutic solutions that should be considered measures of chemical restriction and, therefore, subject to the standard of associated performance;

*Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*



- c) Provision of two rooms of isolation with an audible alarm system, where necessary, to call for assistance, promoting the safety of patients and ensuring their appeasement;
- d) Improvement of the «Record Sheet of Physical Containment Episode» in order to ensure that relevant data are recorded (*v.g.*, the behavior that triggered the measure, the attempted preventive measures, the record of complications, the physician who proposed or agreed to the measure, the result of the monitoring and, with particular emphasis, the length of the measure).

## II

This present position of mine comes as a result of my visit, as a National Preventive Mechanism (NPM)<sup>1</sup>, to the Department of Psychiatry and Mental Health, which took place on April 18.

According to the scope of intervention of the NPM<sup>2</sup> and with the object of the visit previously defined, the intent was, in particular, to verify the procedural aspects and practices in use have been assessed in relation to users who are subject to compulsory hospitalization under the Mental Health Law<sup>3</sup>, such as restraint measures and protocols in the absence of a physician. The physical space for patients was also examined.

For this purpose, the institution's manager and clinical director, the doctors and the nurses were heard, as well as all the other professionals that were there during

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<sup>1</sup> In Portugal, the quality of NPM was attributed to the Ombudsman, through the Resolution of the Council of Ministers no. 32/2013, of May 20.

<sup>2</sup> The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the purpose of which is to establish a system of regular visits by independent international and national bodies to places where persons are deprived of their liberty in order to prevent torture and other cruel, inhuman or degrading treatment or punishment, was ratified by Portugal in 2012, through Decree no. 167/2012 of the President of the Republic of December 13.

<sup>3</sup> See Law no. 36/98, July 24, altered by the Law no. 101/99, of July 26



the visit. The registration methods of the restriction measures and the exchange of impressions with patients were further analyzed.

### III

Regarding the physical space intended for the reception of patients in an inpatient care system, the cleanliness, brightness and general good condition observed in modern and pleasant facilities, although lacking elements of a different visual stimulation for what is common in a hospital environment. The six hospitalized patients circulated freely, although under the supervision of several professionals.

In particular on the use of containment measures *vis-à-vis* patients who question their safety or the environment, sufficient overall assimilation of the aspects concerned has been observed. This is an aspect that has a high potential for violation of patients' rights and calls for robust consolidation and awareness in accordance with international and national best practices and guidelines, such as those issued by the Directorate-General for Health, Subordinated to the principle of exceptionality and the least restriction possible.

Defending the full use of the opportunity to introduce improvement measures, the analysis contained in the Quarterly Audit Report on Physical Containment, related to the period from January 1 to March 31, 2017,<sup>4</sup> converges with the understanding of the NPM, and the under reporting of the episodes is particularly significant and worrying in this area.

Notwithstanding the mentioning of the ongoing development of internal guidance on the use of physical restraint measures, access to the proposed document was not achieved. While I do not know the content, I cannot fail to emphasize the pertinence of the conclusion, as soon as possible, of this initiative to reinforce the guidelines on the use of coercive means in patients, adding the convenience of

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<sup>4</sup> See Auditing no. 02/2017, of May 18 of 2017.



ensuring that in the normative instrument to be approved, the use of chemical restraint and the isolation of patients should be considered.

According to the information collected, the prescription and administration of medication in the absence of the doctor (called «SOS mediation») is subject to prior general authorization, which is contained in the patients' clinical file. The administration of medication with a calming effect, in this context, does not therefore seem necessarily perceived or qualified by professionals as a measure of containment.

If a generic authorization for the administration of certain drugs is permissible, the rule is not universally valid for any medicinal product. Discernment is not evident in the practice followed in the Local Health Unit of *Baixo Alentejo, E.P.E.*, and it seems appropriate that in certain cases (*v.g.*, sedatives, antipsychotic or tranquilizers), its administration is framed by the same guarantees of other measures of containment and, in this way, is understood by the professionals. In this context, this recommendation suggests that the internal procedure to be applied to the currently in preparation containment measures should contain clarification of the relationship between medication and chemical containment, by defining the drugs whose administration, combined with the other conditions, corresponds to a containment measure. It is a framework which, in my view, would reinforce the patient's assurances and also the control and safety of the professionals who administer them, above all if they are not doctors.

#### IV

Continuing to analyze the two isolation rooms, the absence of an audible alarm system is surprising, a fact that can be aggravated if we consider that the service is not equipped with a video surveillance system. In this area, reasons related to patient safety and, furthermore, to the essential sense of tranquility and desired well-being, especially in patients undergoing isolation measures, advise the uninterrupted



connection with health professionals, and at least the regular functioning of an alarm system directly connected to the nurses' room is required. It should be noted that the regular proximity of the nurses to the isolation rooms, according to the practice referred to and due, does not overlap with the said alarm system, which aims to provide permanent support.

Also, regarding the equipment of the insulation rooms, it should be noted, in a favorable way, the absence of cracks in the windows, but care must be taken to ensure that the windows used are effectively unbreakable, given the usual conditions in which patients remain there.

## V

Lastly, it is to be welcomed that there is a specific and autonomous registration that identifies and fits the use of restraint measures applied, cumulatively with the inscription of the episodes that occurred in the individual clinical trials. However, the improvement of the features of the «Record Sheet of the Containment Episode» should include, in particular, the possibility of recording the duration of the episode, as well as other relevant information including the behavior that justified the measure, the preventive measures taken to avoid it, the doctor who proposed it or who agreed with it, the health professionals involved, the monitoring carried out during its execution and eventual complications.

## VI

As a last note, it should be stressed that the common placement of adults and children or young people is a measure to be avoided. It is preferable, if there is a situation of absolute clinical indication for the hospitalization of a minor, the consideration of other alternatives, namely those resulting from collaboration with the pediatric or other services.



## VII

In summary, I cannot fail to mention, regarding the general state of the facilities and the policy of approaching the community practiced by the Department of Mental Health of the Local Health Unit of *Baixo Alentejo, E.P.E.*, through support to ambulatory patients provided by the community teams and decentralized medical appointments, the feasibility and consolidation of the policy on the use of patient restraint measures should be strengthened, thus strengthening the guarantees and dignity of the persons interned at the place visited.

I am certain of your efforts regarding the above mentioned improvements, which I cannot fail to emphasize that are not related to the quality of the clinical care provided.

The Portuguese Ombudsman  
National Preventive Mechanism

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*José de Faria Costa*