

SUSNFS NEWSLETTER ARTICLE (January 1999)

Boxer Law Instruction Update

Several months ago, I discussed SECNAVINST 6320.24, the "Boxer Law" instruction. This instruction concerns referrals of active duty members for involuntary psychiatric evaluation. It prohibits referring patients for psychiatric evaluations as punishment or in reprisal. I suspect that reading my first article on the Boxer Law instruction was as effective as Ambien for sleep induction. However, this article will discuss an updated version of the instruction, SECNAVINST 6320.24A, that is awaiting final signature by the Secretary of the Navy. Because the proposed new instruction is based on a current DOD instruction, my BUMED contacts recommend that we should all obtain a draft of SECNAVINST 6320.24A and comply with the guidelines. I will attempt to place a copy of the draft instruction on the NOMI Psychiatry web site. You may also contact your local JAG Corps Officer, your local Mental Health Department clinician, or contact one of us at NOMI Code 21 to obtain a copy.

The revised Boxer Law instruction mandates that if an active duty member is referred for a Command-directed psychiatric evaluation by the member's Commanding Officer (or a flight surgeon with the same Commanding Officer as the member), the member must be notified in writing of certain rights before the psychiatric evaluation occurs. The memorandum is signed by the referring Commanding Officer and presented to the member before his or her evaluation. SECNAVINST 6320.24A has a "go by" of this memorandum.

The Boxer Law instruction is not needed if:

- (1) The patient requests a mental health evaluation (this is called a "voluntary self-referral").
- (2) The referring flight surgeon/clinician and the patient have different Commanding Officers.
- (3) The patient is referred for the annual mental health evaluation required for an alcohol abuse/dependence waiver.

What if a patient agrees to have a psychiatric evaluation suggested by the flight surgeon, but the patient did not request

the evaluation, and the patient and referring flight surgeon have the same commanding officer? The Boxer Law applies because this is not a "voluntary self-referral."

How do you arrange a routine psychiatric evaluation in accordance with the revised Boxer Law instruction?:

(1) The referring Commanding Officer (or his/her flight surgeon) should discuss the reason for the referral with a mental health clinician (psychiatrist, psychologist, or doctoral-level social worker) who will decide if the reason for the referral is appropriate.

(2) The Commanding Officer sends a memorandum to the mental health clinician's Commanding Officer that includes a summary of the patient's military performance evaluations and past, or pending, legal actions. (This memorandum will be forwarded to the mental health clinician who will perform the evaluation.)

(3) The patient is given a second memorandum (at least 2 business days before the appointment) that includes the reason for the psychiatric referral and a list of patient's rights. For example, the patient may consult a JAG Corps Officer or the Inspector General if he believes that the psychiatric referral is inappropriate. This memorandum, signed by the Commanding Officer, may be presented to the patient by the flight surgeon or another representative of the CO.

(4) Following the psychiatric evaluation, the mental health clinician sends a third memorandum to the patient's Commanding Officer documenting the patient's diagnosis, treatment plan, disposition recommendations, and degree of dangerousness (risk of suicide or homicide).

Does the Boxer Law instruction pertain to emergency psychiatric evaluations? Yes! If a patient is suicidal, homicidal or mentally disabled such that he can not care for himself the patient's Commanding Officer must ensure that the patient is safely transported for an emergency psychiatric evaluation. (Calling an ambulance or Base Security is usually the safest transportation option.) If feasible, the Commanding Officer or the flight surgeon should first speak with the mental health clinician. Unfortunately, after the patient is evaluated, the 2 memorandums mentioned earlier in the article must be delivered to the patient and mental health clinician's Commanding Officer.

What else does the revised Boxer Instruction draft discuss? The draft also includes:

(1) Guidelines for involuntary psychiatric hospitalization.

(2) Guidelines for treating patients deemed "imminently dangerous." The instruction distinguishes between emergency situations and imminent dangerousness. However, I recommend that you treat an "imminently dangerous" patient as an emergency. (Caveat: arrange an emergency psychiatric evaluation ASAP.)

(3) The new instruction also includes practical guidelines for handling "potentially dangerous" patients (not to be confused with "imminently dangerous" patients. Can you tell that a lawyer wrote this instruction?) The draft has very helpful recommendations regarding appropriate documentation in the medical record and guidelines for treating potentially dangerous patients. I strongly recommend that you review these guidelines. You may be the flight surgeon at a remote location with no "on-site" psychiatrist or psychologist. You may have to treat a dangerous patient before a mental health evaluation is available. It is essential to document your treatment appropriately.

(4) Finally, the new Boxer Instruction puts "teeth" in the administrative separation process for certain patients with personality disorders. If the patient, with a personality disorder is recommended for expeditious administrative separation due to imminent dangerousness, the patient's Commanding Officer should separate the patient. If the Commanding Officer elects to retain the member on active duty, the Commanding Officer must inform his superior officer why he/she is ignoring the psychiatric recommendation for separation.

In summary, the revised Boxer Instruction will differ from the current instruction (SECNAVINST 6320.24) in three ways:

(1) For Command-directed psychiatric evaluations, the patient's Commanding Officer must send a memorandum to the mental health clinician's Commanding Officer noting the patient's performance history and legal action.

(2) Following the evaluation, the mental health clinician must send a memorandum to the patient's Commanding Officer noting the diagnosis, treatment recommendations and disposition.

(3) If the mental health clinician recommends expeditious administrative separation for a personality disorder due to imminent dangerousness, the patient's Commanding Officer must comply, or explain to his superior officer why he is ignoring the psychiatric recommendation.

If in doubt about whether the Boxer Law Instruction guidelines apply to a psychiatric referral, consult a JAG Corps Officer or a mental health clinician. If still uncertain, comply with the instruction guidelines. Obtain a copy of the SECNAVINST 6320.24A draft, read and heed, and use the "go by" for the various memorandums mentioned in this article. Please contact one of us at Code 21 if you have any questions. If needed, we will send you a copy of the "go by". Soon, the draft should be available on our web site. Please remember that NOMI Psychiatry did not write the instruction, so "don't shoot the messenger."

M. W. MITTAUER
Head, Psychiatry Dept., NOMI