



MONTANA STATE HOSPITAL POLICY AND PROCEDURE

DISCHARGE OR CONDITIONAL RELEASE FROM CIVIL COMMITMENT

Effective Date: October 18, 2016

Policy #: AD-02

Page 1 of 7

- I. PURPOSE:** To clarify standards, responsibilities, and procedures for the discharge or conditional release of patients under civil involuntary or voluntary commitment to Montana State Hospital (MSH) for inpatient psychiatric treatment.
- II. POLICY:**
 - A. MSH promotes adherence to state and federal standards pertaining to the discharge or conditional release of patients from civil involuntary or voluntary commitment to the hospital.
 - B. MSH promotes the provision of treatment in the least restrictive, least intrusive manner necessary to meet the patient's needs and promote community safety.
 - C. Licensed Independent Practitioners (LIP), in collaboration with the patient, guardian, family members, aftercare providers, and treatment team, may discharge or conditionally release a patient during any period of civil involuntary commitment.
 - D. The LIP will consider a patient's needs, risk of harm to self, risk of harm to others, and capacity for self-care in the determination of a patient's readiness for discharge or conditional release.
 - E. The LIP or designee, in collaboration with the patient, guardian, family members, aftercare providers, and treatment team, will develop a discharge or conditional release plan designed to meet the individualized needs of the patient, promote safety, and promote recovery.
 - F. The Social Worker will refer the patient to appropriate facilities, agencies, aftercare providers, and other appropriate resources as indicated upon discharge or conditional release.
 - G. If the patient does not have clothing suitable to the season, MSH will provide suitable clothing upon discharge or conditional release.
 - H. The lack of a preferred community placement is not, in itself, a reason for continued involuntary hospitalization of a patient who can be treated in a less restricted, community-based setting. When aftercare placements preferred by patients, guardians, or family members are not available, arrangement may be made for an alternative that adequately meets the needs of the patient.

- I. District courts may order the discharge or conditional release of a patient on a civil commitment, independent of the LIP, patient, guardian, or treatment team's recommendation.
- J. At the end of a period of civil involuntary commitment, if the patient's commitment is not extended by a district court, the patient must be released. If appropriate, to meet the needs of the patient, the patient may sign a voluntary commitment to the hospital.
- K. The MSH Director of Quality Improvement will maintain a quality assurance and performance improvement program designed to monitor the discharge and conditional release system. The results of intermittent studies of quality and performance will be reported to the Hospital Administrator.

III. DEFINITIONS:

- A. Discharge – The release of a patient from inpatient treatment at MSH and unconditional termination of a period of involuntary or voluntary civil commitment. This release terminates formal obligations MSH has toward the patient.
- B. Conditional Release – The release of a patient from inpatient treatment at MSH, which is identical to a Discharge except that the patient's involuntary commitment is retained, responsibility for treatment is assumed by the community outpatient care provider, and the patient is subject to conditions designed to promote recovery and safety. The committing court, MSH, or outpatient care provider may impose specific conditions during the period of involuntary commitment. The conditions of release may be extended by the court. If the patient violates the conditions of release the court may revoke the conditional release and order a higher level of care, including a return to MSH.
- C. Pre-Placement Visit (PPV) – A type of release from MSH designed to assess a patient's readiness for release, which may lead to a discharge or conditional release. If the patient violates the conditions of the PPV the patient may be returned to the hospital without any court hearings or involuntary civil commitment proceedings.
- D. Home Visit – Temporary leave from MSH for purpose of a home visit to assess the potential for aftercare placement. This type of visit is not a discharge or conditional release.
- E. Temporary Court Custody (TCC) – Temporary leave from MSH for a court-ordered proceeding, which is not a discharge or conditional release. However, the court may order a conditional release or discharge at such a proceeding.

IV. RESPONSIBILITIES:

- A. LIP – Direct patient care, determine discharge and aftercare needs, assess readiness for discharge or conditional release, order discharge, order conditional release, order home visits, order pre-placement visits, order temporary court custody, make appropriate notifications, make appropriate warnings, and complete discharge summaries.
- B. Social Worker – Develop discharge or conditional release plans, obtain authorization for the release of confidential information, make arrangements for appropriate aftercare services, document aftercare plans, inform patients of discharge and aftercare plans, provide appropriate notifications, and implement discharge and aftercare plans.
- C. Discharge Technician – In collaboration with the social worker, verify that all discharge or conditional release procedures have been completed. Administer patient satisfaction survey.

V. PROCEDURE:

- A. Planning, Preparation, and Assessment of Readiness for Discharge or Conditional Release
 - 1. The patient’s social worker will initiate a community re-entry plan within 10 days of a patient’s admission. The plan must include: anticipated discharge date; criteria for discharge; staff member responsible for discharge planning; potential aftercare providers; and referrals for financial assistance, if needed. This is a legal requirement (§53-21-180). Refer to policy AD-04 (Discharge and Aftercare Planning) for additional information about discharge and aftercare planning.
 - 2. Social workers will obtain written authorization/or implied consent to release confidential information from the patient or guardian before communicating with others about the discharge or conditional release plans, unless the disclosure or notification is required by law.
 - 3. The LIP, in collaboration with the treatment team, patient, guardian, family members, and aftercare providers, will assess the patient’s need for a conditional release or pre-placement visit to promote recovery and safety.
 - 4. The patient’s treatment team will assess the patient’s readiness for discharge or conditional release during each treatment progress review meeting, if not more frequently.
 - 5. When the LIP has determined the patient is ready for discharge or conditional release they will request that the social worker provide statutory notifications,

Montana State Hospital Policy and Procedure

DISCHARGE OR CONDITIONAL RELEASE FROM CIVIL COMMITMENT

Page 4 of 7

confirm aftercare resources, notify the patient, notify significant others, and finalize the discharge or conditional release plan.

B. Notifications, Agreements, and Warnings Prior to Release from Hospital

1. After the LIP determines the patient is ready for discharge or conditional release, and at least 5 days prior to release, the social worker will notify health information of need to send a letter to the court and the county attorney that committed the patient indicating the intention of the hospital to discharge or conditionally release the patient (Attachment A – Court Notification of Intent to Release). This is a legal requirement (§53-21-183 MCA).
2. If the patient is being discharged to the Montana Mental Health Nursing Care Center, the social worker will notify the patient, the patient's next of kin, the patient's guardian, and the mental disabilities board of visitors of the intention to transfer the patient at least 15 days before the transfer (Attachment B – Notification of Intent to Transfer to MMHNCC). If any of the parties object to the transfer they may petition the district court for a hearing to review the discharge/transfer plan. This is a legal requirement (§53-21-414).
3. If the treatment team recommends a conditional release, the patient's social worker will contact the community-based aftercare provider and develop a written agreement for the assumption of responsibility for the patient on involuntary civil commitment. The form (Attachment B – Agreement for Conditional Release) will specify the conditions of release and be signed by the patient and community-based aftercare provider prior to release from the hospital. A copy of the signed agreement will be maintained in the patient's medical record. This is a legal requirement (§53-21-183 MCA).
4. If the patient has communicated an actual threat of physical violence by a specific means against a clearly identified or reasonably identified person the LIP or designee, or any other mental health professional with personal knowledge of the threat, will discharge the duty to warn and protect. This is a legal requirement (§27-1-1102). If there is a duty to warn and protect the professional will:
 - a. Make a reasonable effort to communicate the threat to the victim and notify the law enforcement agency closest to the patient's or the victim's residence of the threat of violence, and
 - b. Supply a requesting law enforcement agency with any information the LIP has concerning the threat of violence.
 - c. Document the effort to warn and protect.
5. If the patient was convicted of arson or acquitted of arson on the ground of mental disease or defect, the patient's social worker will provide written notice to the Department of Justice, Arson Bureau, before discharge or conditional release (Attachment D – Notice to Fire Marshall Bureau). The notice will include:
 - a. The name of the person.

- b. The location where the person plans to reside
- c. The type of fire the person was involved in.

This is a legal requirement (M.C.A. §53-1-104).

6. Prior to discharge or conditional release, the patient's social worker will notify the patient, patient's guardian, and aftercare providers of the Discharge and Aftercare, Plan. The Plan will be shared with relevant parties as authorized by the patient in order to promote communication, safety, and continuity of care. Aftercare plan will be faxed to aftercare providers 24-48 hours before discharge.
7. Social workers will review Duty to Register expectations for civil commitments who are designated as sexual or violent offenders per M.C.A. § 46-23-501 through § 46-23-520 (attachment E). Patient and social worker will sign the original Duty to Register, which will be placed in the patient's medical record, and a copy will be provided to the patient.

C. Implementation of Discharge or Conditional Release

1. The patient's LIP authorizes the implementation of a discharge or conditional release by writing an order in the medical record. The order will specify the type of release and specify or refer to conditions the patient should follow.
2. The patient's LIP will order recommended medicine for the patient at discharge or conditional release. The LIP will consider the risks of the patient possessing medicine at release, the availability of medicines in the community, and the need for prescriptions to help ensure continuity of care. The LIP will consult with the Hospital Administrator about large or very expensive medicine orders.
3. The nurse responding to the LIP's order will educate the patient about their medicine, explain precautions, and clarify instructions. The nurse will complete the medication information in the Discharge Instruction Sheet.
4. In order to implement the discharge or conditional release, the patient's social worker will:
 - a. Finalize the Aftercare Plan.
 - b. Review and clarify the, Aftercare Plan with the patient, patient's guardian, and others as authorized or appropriate.
 - c. Notify the patient of the Brady Bill firearms restriction.
 - d. Arrange for appropriate transportation to the patient's destination.
 - e. Arrange for the return of the patient's personal property and money.
 - f. Arrange for medication and prescriptions necessary to provide continuity of care until the patient is under the care of the aftercare provider.
 - g. Verify that the patient has clothing suitable for the season.
 - h. Provide a list of additional community resources that the patient might access after release.

- i. Follow up with the aftercare to ensure receipt of aftercare and support ongoing community re-entry.
5. If the discharge, conditional release, or aftercare plans are unusual, the patient's social worker will obtain approval from the Hospital Administrator, or designee, before implementing the plan. This might involve discharge to another state, discharge to a homeless shelter, excessive transportation costs, excessive medicine expense, or similar conditions.
6. In order to assist with the discharge or conditional release, and verify aftercare services, the Discharge Technician will:
 - a. Review the Aftercare Plan.
 - b. Verify that essential elements of the Plan are in place.
 - c. Verify that essential notifications, agreements, and warnings have been made.
 - d. Verify that essential forms are completed and signed.
 - e. Verify that the patient has necessary medicine and prescriptions.
 - f. Administer the Patient Satisfaction Survey.
 - g. Coordinate transportation.
 - h. Offer additional community resources as requested or appropriate.

D. Discharge from Voluntary Civil Commitment

1. Discharge from voluntary civil commitment will follow the procedures for involuntary civil commitment except that patients on voluntary commitment are not eligible for conditional release.

E. Post Discharge or Conditional Release

1. The LIP will complete a discharge summary within 15 days of the patient's discharge. This is a legal standard (42-CFR-482.24 and 482.43). The discharge summary must include:
 - a. History of present illness,
 - b. Psychiatric history,
 - c. Drug and alcohol history,
 - d. Family history,
 - e. Medical history,
 - f. Social history,
 - g. Work history,
 - h. Marital history/children,
 - i. Military history,
 - j. Criminal history,
 - k. Living situation,
 - l. Significant medical and/or physical findings
 - m. Course in hospital
 - n. Condition at discharge,

Montana State Hospital Policy and Procedure

- o. Level of risk at discharge,
- p. Discharge Plan:
 - i. Disposition and treatment recommendations,
 - ii. Legal status at discharge,
 - iii. Discharge instructions,
 - iv. Discharge medication.
- q. Diagnoses.

2. The patient’s social worker will attempt to contact the patient, patient’s guardian, or aftercare provider to assess the quality of the discharge process and linkage to aftercare services.

VI. REFERENCES: Federal standards: 42-CFR 482.43 and 482.24. M.C.A. §27-1-1102 “Duty to Warn of Violent Behavior”; §53-21-180 through 187 Discharge; §53-21-195 through 198 Conditional Release Rehospitalization; § 46-23-501 through 520"Sexual or Violent Offender Registration Act".

VII. COLLABORATED WITH: Office of Legal Affairs; Admissions and Discharge Program Manager; Social Work Supervisor; Hospital Administrator; Medical Director; Clinical Services Director

VIII. RESCISSIONS: #AD-02, *Discharge From Hospital* dated November 9, 2009; #AD-02, *Discharge Policy* dated August 22, 2006; #AD-02, *Discharge Policy* dated September 8, 2003; #AD-02, *Discharge Policy* dated May 15, 2001; #AD-02, *Discharge Policy* dated February 14, 2000; HOPP #13-01d.031379, *Discharge Policy*, dated November 1978

IX. DISTRIBUTION: All hospital policy manuals.

X. ANNUAL REVIEW AND AUTHORIZATION: This policy is subject to annual review and authorization for use by either the Administrator or the Medical Director with written documentation of the review per ARM § 37-106-330.

XI. FOLLOW-UP RESPONSIBILITY: Director of Clinical Services

XII. ATTACHMENTS:

- A. Court Notification of Intent to Release
- B. Notification of Intent to Transfer to MMHNCC
- C. Agreement for Conditional Release
- D. Notice to Fire Marshall Bureau
- E. Duty to Register

_____/____/____
Jay Pottenger Date
Hospital Administrator

_____/____/____
Thomas Gray, M.D. Date
Medical Director



Department of Public Health and Human Services

Addictive and Mental Disorders Division ♦ Montana State Hospital ♦ P.O. Box 300 ♦ Warm Springs, MT 59756 ♦ Voice: 406-693-7000 ♦ Administration Fax: 406-693-7069 ♦ Health Information Fax: 406-693-7160 ♦ Admissions Fax: 406-693-7007

Steve Bullock, Governor

Richard H. Opper, Director

MONTANA _____ JUDICIAL DISTRICT, _____ COUNTY

In the Matter of _____)
Respondent _____)
_____)

Cause No. _____

MSH #: _____

NOTICE OF PENDING DISCHARGE
(§ 53-21-181 and -183, MCA)

Notice: The Professional Person for the above-named Respondent has ordered Respondent's discharge from Montana State Hospital pursuant to § 53-21-181 or -183, MCA, with a tentative discharge date of: _____

This discharge is

_____ Unconditional – Commitment is terminated.

_____ Transfer to Montana Mental Health Nursing Care Center, Lewistown, Montana, per 53-21-414, Montana Code Annotated. Commitment is not affected by this transfer.

_____ Conditional -- Respondent remains subject to rehospitalization pursuant to § 53-21-195, MCA. Responsibility is assumed by the following outpatient facility:

Name of Facility	Phone
Address	

Dated: _____

Health Information Department
Montana State Hospital
Warm Springs MT 59756
For _____ Social Worker
(406) 693-____

cc: County Attorney
Counsel for Respondent



Department of Public Health and Human Services

Addictive and Mental Disorders Division ♦ Montana State Hospital ♦ P.O. Box 300 ♦ Warm Springs, MT
59756 ♦ Voice: 406-693-7000 ♦ Administration Fax: 406-693-7069 ♦ Health Information Fax: 406-693-7160
♦ Admissions Fax: 406-693-7007

Steve Bullock, Governor

Richard H. Opper, Director

Notification of Intent to Transfer to MMHNCC

DATE:

PT NAME:

- Unit

Montana State Hospital
Warm Springs, MT 59756

Dear NAME _____:

As you are aware, your treatment team has been investigating a less restrictive environment to care for you. You no longer require the intensive psychiatric care provided at Montana State Hospital. Because you no longer require active treatment, we are required to prepare a discharge plan for you.

A referral packet has been sent to the Montana Mental Health Nursing Care Center (MMHNCC) in Lewistown, MT. The center specializes in the care and treatment of persons with emotional disorders who need a less restrictive community setting and who have received maximum benefit from treatment at the state hospital. They have accepted you for admission and a tentative date of transfer has been set for _____, or later, when a bed is available.

State Statute MCA 53-21-414 mandates:

“The department shall notify the patient, the patient’s next of kin and the Mental Disabilities Board of Visitors at least 15 days before the transfer.”

This letter is your notification of transfer.

If you oppose this transfer, the state allows you the following options:

(MCA. 53-21-414), “If a person or entity notified by the department objects to the transfer, the person or entity may petition the district court for a hearing to review whether the transfer is necessary and appropriate to meet the needs of the patient. The notice required by this subsection must include notification of the right to petition the district court to this subsection.”

If you have any questions about the Montana Mental Health Nursing Care Center, you should contact Steve Cummings, at (406) 538-7451.

If you need assistance in understanding your rights, you may contact Craig Fitch at the Board of Visitors Program at Montana State Hospital (406) 693-7037.

If you have any concerns or questions I could address, please contact me at (406) 693-____. My work hours are 8 a.m. to 4 p.m., Monday through Friday.

Sincerely,

_____, Social Worker
-Wing
Montana State Hospital
Warm Springs, Montana 59756

cc:

PAULETTE KOHMAN
DEPARTMENT OF PUBLIC HEALTH & HUMAN SERVICES
OFFICE OF LEGAL AFFAIRS
111 N. SANDERS #210
HELENA MT 59604-4210

CRAIG FITCH
MENTAL DISABILITIES BOARD
MONTANA STATE HOSPITAL
WARM SPRINGS, MT 59756

ATTN: CHRIS MCCORD
MMHNCC
800 CASINO CREEK DRIVE
LEWISTOWN MT 59457

**MONTANA STATE HOSPITAL
AGREEMENT FOR CONDITIONAL RELEASE**

Pursuant to provisions of Chapter 21, Section 53-21-183 M.C.A., I understand that I am being referred for outpatient care as a condition for early release. I, _____, agree to meet the following conditions and plan:

1. I agree to take all my medications exactly as prescribed.
2. I agree to keep all scheduled appointments with my psychiatrist, APRN, case manager, therapist and others pertinent to my recovery and stability.
3. I agree to follow the rules of the (residence, group home, crisis house etc.)
4. I agree to not drink alcohol or use drugs not prescribed by my providers.
5. Section 922(g) of the Brady Act states that it shall be unlawful for any person who has been committed to a mental institution to possess any firearm or ammunition. I agree not to possess or own any firearms/weapons or ammunition.

If, at any time, I fail to live up to the above conditions I acknowledge that the court may order my conditional release status revoked, following a hearing on the re-hospitalization petition, and that I may be referred to Montana State Hospital for the remainder of my period of commitment which ends on _____, 53-21-195, 197 M.C.A.).

Signature of Patient

Date

ACCEPTANCE BY OUTPATIENT CARE FACILITY

We agree to accept responsibility for providing outpatient care as outlined above. In the event the patient violates a condition of the release and that violation causes a deterioration of the patient's mental condition and as a result of this deterioration the patient can no longer be appropriately served by outpatient care, and after a hearing on the re-hospitalization petition, the patient will be returned to the custody of Montana State Hospital, with a report, at least three weeks prior to termination of his/her commitment as stated above. The mental health facility under whose care the conditionally released person is placed will be responsible for arranging the return of the conditionally released patient to Montana State Hospital (53-21-186, 197 M.C.A.).

Signature: Outpatient Care Provider

Date

NOTICE TO FIRE MARSHALL BUREAU

PATIENT RELEASE FROM SUPERVISION NOTIFICATION

Notice to Fire Marshal Bureau
Department of Justice
Helena, Montana 59620

Please be advised that _____ Name _____, who was admitted to Montana
State Hospital on _____ Date _____ after having committed the Crime of Arson
in _____ Name of County or City _____ will be released from the hospital on _____ Date _____.

Their release status is as indicated:

- Discharge (unconditional)
- Probation or Parole with conditions
- Conditional Release (civil)
- Home Visit or Pre-Placement Visit from: _____ to _____.
- Other: _____

Their expected place of residence is: _____

If you need to contact someone in the community for information about this person, we advise
contacting: _____ Name _____, _____ Relationship _____,
_____ Address & Phone _____.

If you need more information from Montana State Hospital, please contact:

cc: Health Information

Duty to Register

The court order has designated you as a sexual or violent offender per 46-23-501 through 46-23-520, M.C.A.

Therefore, you are required to register as a sexual/violent offender with the Chief of Police, City Police Department or the Sheriff of your County in the community in which you are residing.

The “**Sexual and Violent Offender Registration Act**”, [46-23-501 through 46-23-520] requires offenders convicted of Deliberate Homicide, Mitigated Deliberate Homicide, Aggravated Assault, Partner or Family Member Assault (3rd or subsequent offense), Assault on a Peace Officer or Judicial Officer [45-5-210 (1)(b), (1)(c) or (1)(d)], Assault on a Minor, Assault With A Weapon, Unlawful Restraint (if the victim is less than 18 years of age and the offender is not a parent of the victim), Kidnapping, Aggravated Kidnapping, Robbery, Arson, Operation of Unlawful Clandestine Laboratory, Sexual Assault [45-5-502(3)], Sexual Intercourse Without Consent, Indecent Exposure (if the victim is under 18 years of age and the offender is 18 years of age or older or on a 3rd or subsequent conviction), Incest (if the victim is under 18 years of age and the offender is 3 or more years older than the victim), Sexual Abuse of Children, or Aggravated Promotion of Prostitution (any child under 18 years old), to register their address or intended address with law enforcement officials in that area. **You must register and are required to comply with the following:**

- a. I am required to provide the Montana Department of Justice a set of registration fingerprints and a current photograph, when necessary, in order to keep my registration current.
- b. I must register with local law enforcement within 3 days of entering a county of Montana if:
 - 1) I was sentenced for a sexual or violent offense in another state and come to reside in Montana for a period of 10 days or more, or
 - 2) I return to Montana after residing out of state; or
 - 3) I temporarily work or attend school in Montana for a period of 10 days or more.
- c. If I regularly reside in more than one county, I am required to register with the registration agency of each county or municipality where I reside.
- d. If I lack a residence and am a transient offender I must register within 3 days of entering a county of Montana. I must report monthly to the law enforcement agency in the county where I live.
- e. I must appear in person and give notice within 3 days of changing my name or residence, or my employment, student or transient status to the agency with which I last registered. A Post Office box address is **not** sufficient unless a street address is also provided. If I do not have a street address I must register as a transient and provide a description of the physical locations where I stay.
- f. If I was convicted of a sexual offense, I must register for the rest of my life. After 10 years of registration if I am a Level 1 sex offender or 25 years if I am a Level 2 sex offender, I may petition the sentencing court or the district court where I reside for an order relieving me of registration. Being released from probation or Parole does not automatically relieve my duty to register.
- g. If I was convicted of a violent offense, I must register for 10 years. If I am convicted of another felony offense during this time I will be required to register for life. I must petition the sentencing court or the district court where I reside for an order relieving me of registration. Release from probation or parole does not automatically relieve my duty to register.
- h. I will receive an offender verification letter in the mail from the Montana Department of Justice once a year, every 180 days if I was designated a Level 2 sex offender or every 90 days if I was designated a Level 3 sex offender. I have 10 days to return the letter after signing it before a notary public. If I am a registered sex offender I must return the offender verification letter in person to the agency with which I last registered. At that time a current photograph will be taken. If I have not received an offender verification letter a year from now [or 180 or 90 days from now], I should call (406) 444-2497.
- i. If I move to another state, I must register in that state within 3 days of my arrival. I must also inform my last registering agency in Montana IN WRITING that I have moved out of their jurisdiction to keep my Montana registration file current. If I move back to Montana, I will be required to register within 3 days.

- j. If I fail to register or to keep my registration current and accurate, I could be convicted of a separate felony offense and sentenced to prison for up to 5 years, fined \$10,000, or both.
- k. I must pay for costs associated with registration. I will be notified of the amount of the costs and to what agency they must be paid.
- l. If I am a sex offender, I must register in states where I work or attend school

Signature:

Date:

Witness Signature:

Date:
