



MONTANA STATE HOSPITAL

POLICY AND PROCEDURE

Access To Patients And Treatment Areas By Designated Protection And Advocacy System

Effective Date: April 8, 2016

Policy #: ADM-13

Page 1 of 4

I. PURPOSE:

To assure that representatives of the protection and advocacy system designated by the state of Montana pursuant to 42 USC § 10801 et seq. and § 53-21-169, MCA, are provided reasonable unaccompanied access to patients of Montana State Hospital (MSH) as required by 42 U.S.C. § 10805, and 42 CFR § 51.42. MSH seeks to provide this access in a manner that respects the therapeutic purpose of the hospital, protects the privacy of all patients, and promotes the safety of all concerned.

II. POLICY:

- A. MSH recognizes that staff and authorized agents of a protection and advocacy system have a right to reasonable unaccompanied access to MSH patients and areas of MSH as established in federal law.
- B. MSH will provide a procedure for the protection and advocacy system to obtain reasonable unaccompanied access to areas of the hospital and/or patients of the hospital upon request that is consistent with 42 CFR 51.42.

III. DEFINITIONS:

- A. Protection and advocacy (or P&A) system: The agency designated by the Governor to provide mental health protection and advocacy system pursuant to 42 USC § 10801 et seq., and § 53-21-169, MCA.
- B. Staff and authorized agents of protection and advocacy system: Protection and advocacy system employees with appropriate P&A-issued identification, and any other person for whom the protection and advocacy system has provided written designation as an authorized agent of the protection and advocacy system.
- C. Areas of the facility which are used by patients or are accessible to patients:
 - 1. Spratt, and Units A, B, D and E: hallways, day halls and dining rooms and, when an investigation involves a particular patient, rooms such as seclusion rooms, observation rooms and patient rooms which have been occupied by that patient.
 - 2. Mental Health Group Homes including Johnson House, Mickelberry House, Mount Haggin Group Home and Pintlar Lodge: day rooms, kitchen/dining areas

and, when an investigation involves a particular patient, the room that has been occupied by the patient.

3. Forensic Mental Health Facility (FMHF) including Pods A, B, C and D, hallways, day halls, dining rooms, classrooms and gymnasium and, when an investigation involves a particular patient, rooms such as seclusion rooms, observation rooms and patient rooms which have been occupied by a specific patient.
4. Therapeutic Learning Center – all areas.
5. Recovery Center – all areas inclusive of the Mental Disabilities Board of Visitors Offices.
6. Main Hospital Cafeteria and Rotunda.
7. Administrative Annex: Patient Accounts (location of on-campus patient banking functions)

IV. RESPONSIBILITIES:

MSH Staff and Administration – allow the protection and advocacy system and its authorized agents reasonable unaccompanied access to facilities and patients as provided in this policy. Unless specifically indicated otherwise under this policy, staff will apply MSH policy # ADM-08, “Patient Visitation”, # FP-04, “Forensic (D Unit) Security Procedures”, and #MSH FMHF, “Security Procedures: Patient Visitation for the FMHF.

V. PROCEDURE:*

* This is MSH’s preferred method to implement this policy.

- A. MSH Superintendent or designee provides Request for Unaccompanied Access form to the protection and advocacy system or its authorized agents upon request (see attached).
- B. Protection and advocacy system staff or authorized agents submit completed Request for Unaccompanied Access form to MSH Superintendent or designee.
- C. MSH Superintendent or designee promptly approves, modifies, or delays requested access with reasons for any delay or modification of the access provided in writing, on the Request for Unaccompanied Access form, and provides a copy to the protection and advocacy system representative and to the front desk staff as far in advance to the requested visit as possible.

D. ACCESS TO AREAS:

1. For investigations of abuse or neglect. Pursuant to 42 CFR 51.42(b), staff and authorized agents of a protection and advocacy system will be permitted reasonable unaccompanied access to areas of the facility which are used by patients or are accessible to patients when an employee or authorized agent of a protection and advocacy system has certified in writing that:

- a. An incident of abuse or neglect has been reported, or a complaint has been made to the protection and advocacy system;
- b. The protection and advocacy system has determined there is probable cause to believe that an incident of abuse or neglect has or may have occurred; or
- c. The protection and advocacy system has determined that there is or may be imminent danger of serious abuse or neglect of a patient.

The written certification must indicate the nature of the incident or provide a statement for the basis of probable cause to believe an incident has occurred, and identify the areas of the facility and the patient or patients involved so that access may be granted to relevant areas of the facility.

2. For information, training, monitoring and inspection. Pursuant to 42 CFR 51.42(c), staff and authorized agents of a protection and advocacy system will be permitted reasonable unaccompanied access to areas of the facility which are used by patients or are accessible to patients, upon request, for the purposes of:
 - a. Providing information and training on, and referral to programs addressing the needs of individuals with mental illness, and information and training about individual rights and the services available from the protection and advocacy system, including the name, address, and telephone number of the protection and advocacy system.
 - b. Monitoring compliance with respect to the rights and safety of patients; and
 - c. Inspecting, viewing and photographing all areas of the facility which are used by patients or are accessible to patients. Patients may not be photographed without documentation of appropriate written consent.

Such access will include, at a minimum, normal working hours and visiting hours. Protection and advocacy system visits for these purposes will be announced to patients in advance.

E. ACCESS TO PATIENTS:

Pursuant to 42 CFR 51.42(b) and (d), staff and authorized agents of a protection and advocacy system will be permitted unaccompanied access to patients during normal working and visiting hours, and at other times necessary to conduct a full investigation of an incident of abuse or neglect. Access will include the opportunity to meet and communicate privately with individuals regularly, both formally and informally, by telephone, mail and in person, subject to each patient's right to refuse. Patients include adults who have legal guardians, conservators, or other legal representatives.

Montana State Hospital Policy and Procedure

**ACCESS TO PATIENTS AND TREATMENT AREAS BY
DESIGNATED PROTECTION AND ADVOCACY SYSTEM**

Page 4 of 4

- VI. REFERENCES:** 42 USC § 10801, et seq. (*Protection and Advocacy System Authority and Responsibilities*); 42 CFR § 51.42 (*Protection and Advocacy System reasonable unaccompanied access to patients and areas of mental health facilities*); § 53-21-169, MCA (*Protection and Advocacy System designation and authority*); MSH Policy # ADM-08, Patient Visitation; MSH Policy # FP-04, Forensic (D Unit) Security Procedures.
- VII. COLLABORATED WITH:** Director of Nursing Services, Director of Health Information, Director of Treatment, AMDD Administrator, and DPHHS Office of Legal Affairs.
- VIII. RESCISSIONS:** #ADM-13, *Access to Patients and Treatment Areas by Designated Protection and Advocacy System* dated November 16, 2012.
- 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:** Hospital Administrator
- XII. ATTACHMENTS:** Request for Unaccompanied Access Form.

John W. Glueckert
Hospital Administrator

____/____/____
Date

Montana State Hospital

Request for Unaccompanied Access by Protection and Advocacy System

Name of Person Submitting Request: _____

Representing: _____

Date of Submission: _____ Time: _____

Request for Unaccompanied Access to:

_____ **Facilities** for the following purpose(s):

_____ Inform and train patients on individual rights, protections and advocacy services. Please identify the unit or area in which you propose to conduct information and training sessions. Staff will arrange meeting space in a common area on approval.

_____ Monitor hospital compliance with respect to patient rights and patient safety. Please identify the areas you wish to visit. Staff will arrange access on approval.

_____ Inspect view or photograph **areas** of the hospital which are used by patients. Please identify areas you wish to inspect or photograph. Staff will arrange access on approval. (Please note: Photographs of **patients** are not permitted under this policy. Written consent of patient or legal representative is required.)

_____ Inspect areas of the hospital in connection with an investigation of an incident of abuse or neglect. Please describe the incident and areas for inspection (staff will arrange access on approval):

_____ **Patients** for the following purpose(s):

_____ Meet with patients informally. Please identify unit or area where you wish to meet patients informally. Staff will arrange opportunity to meet in a common area on approval.

_____ Meet and communicate privately with specific patients. Please identify the patients with whom you wish to meet. Staff will arrange private meeting space on approval.

_____ To conduct an investigation of an incident of abuse or neglect that has been:

_____ Reported to or complaint made to P&A system, or

_____ Probable cause exists to believe abuse or neglect has occurred.

Please describe the abuse or neglect reported or believed to have occurred, including, to the extent known, the identity of any patients and/or staff involved, and the location, date and time of the incident:

Hospital Use Below this Line

_____ Approve

_____ Delay or modify to respect patient privacy, be least disruptive to the therapeutic purpose of the hospital, and promote the safety of patients, staff and the public.

Reasons: _____

_____ Deny

Reasons: _____

Signed: _____

Date: _____

Time: _____