



MONTANA STATE HOSPITAL POLICY AND PROCEDURE

ACCESS TO PATIENTS AND TREATMENT AREAS BY MENTAL DISABILITIES BOARD OF VISITORS STAFF

Effective Date: March 11, 2020

Policy: ADM-14

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I. PURPOSE:

To ensure representatives of the Mental Disabilities Board of Visitors (Board of Visitors) established by § 2-15-211, MCA, and defined in § 53-21-102, MCA, are provided access to patients of Montana State Hospital (MSH) to perform their duties under Title 53, Chapter 21, Part 1, MCA. To provide this access in a manner which 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 staff and authorized agents of the Board of Visitors are State employees, and have the following obligations under Title 53, Chapter 21, Part 1, MCA:

53-21-104. Powers and duties of mental disabilities board of visitors. (1) The board is an independent board of inquiry and review that is responsible to ensure that the treatment of all persons either voluntarily or involuntarily admitted to a mental facility in Montana is humane, is consistent with established clinical and other professional standards, and meets the requirements set forth in this part.

(2) The board shall review all plans for experimental research involving persons admitted to a mental health facility to ensure that each research project is humane and not unduly hazardous

(3) (a) The board shall inspect every mental health facility that provides treatment or evaluation to any person pursuant to this part.

(b) The board shall annually establish a schedule for the inspection of mental health facilities that enables the board to meet its obligation under subsection (1).

(c) The board's authority to inspect mental health facilities may not be waived or precluded by other treatment review, licensing, or accreditation requirements or protocols. The board may exercise the prerogative to inspect any mental health facility at any time independent of its facility inspection schedule.

(d) The board shall produce a written report of each inspection of a mental health facility that must include specific recommendations for improvements that the board concludes are necessary in order for the inspected facility to meet the requirements in this part.

(e) The board shall provide a draft of each written report within 30 calendar days of the completion of each mental health facility inspection

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(f) The professional person in charge of the inspected facility shall provide a written response to the board's written report within 30 calendar days of receipt of the report. . .

(g) The board shall include the inspected facility's written response in the board's final published written report.

(h) The board shall include in subsequent inspections an assessment of each facility's implementation of the recommendations.

(i) The board shall report in writing to the director of the department and the governor when it determines that a mental health facility has not either implemented written recommendations or provided a specific rationale that explains why any recommendations cannot be implemented.

(4) (a) The board, by applying a sampling process during a scheduled inspection of a mental health facility, shall ensure that a treatment plan and a discharge plan exists and is being implemented for each patient admitted or committed to the mental health facility being inspected under this part.

(b) The board, during a scheduled inspection of a mental health facility, shall review all aspects of the treatment of persons admitted to mental health facilities and review the use of treatment procedures that involve behavior control, including but not limited to the use of any type of mechanical restraints, locked and unlocked seclusion or isolation, time out, or any other procedure involving physical control.

(c) The board shall ensure that the use of treatment procedures described in subsection (4)(b) at inspected mental health facilities is clinically justified, is monitored closely by a medical doctor and other mental health professionals, is implemented only when other less restrictive measures have failed, and is implemented to the least extent necessary to protect the safety and health of the affected individual or others in the immediate environment.

(d) The board may exercise the prerogative to inquire about and ensure the existence and implementation of treatment plans and discharge plans for any person admitted to a mental health facility and to inquire about and ensure the appropriate use of treatment procedures described in subsection (4)(b) with any person admitted to a mental health facility independent of its facility inspection schedule.

(5) The board may assist any person who is receiving or who has received treatment at a mental health facility in resolving any grievance the person may have concerning the person's admission or course of treatment in the facility.

(6) The board shall employ and is responsible for full-time legal counsel at the state hospital, whose responsibility is to act on behalf of all patients at the state hospital. The board shall ensure that there are sufficient legal staff and facilities to ensure availability to all patients and shall require that the appointed counsel periodically interview every patient and examine the patient's files and records. The board may employ additional legal counsel for representation of patients in a similar manner at any other mental health facility having inpatient capability.

(7) (a) If the board believes that any facility is failing to comply with the provisions of this part in regard to its physical facilities or its treatment of any person, it shall report its findings in writing to the professional person in charge of the facility and the director of the department.

(b) The professional person in charge of the facility shall submit a written response to the board within 10 working days of the receipt of the board's written findings

(c) If the facility's written response does not resolve the concerns to the board's satisfaction, the board and the professional person in charge of the facility shall meet in person within 15 working days of the board's receipt of the facility's response to seek a mutually agreed upon resolution.

(8) The board shall publish standards for its inspections of mental health facilities.

(9) The board shall report annually to the governor concerning:

(a) the status of the mental health facilities and treatment programs that it has inspected since the last annual report; and

(b) occurrences of the administration of medications against the wishes of persons receiving treatment in mental health facilities and the effectiveness of the review procedure required by 53-21-127(6) in protecting persons from unnecessary or excessive medication.

- B. MSH recognizes all of its patients have a right to privacy and dignity, and an unrestricted right to visitation with attorneys, including the attorney and paralegal of the Board of Visitors, subject to a right of the patients to consent to any visitation. § 53-21-142, MCA.

- D. MSH will provide a procedure for the Board of Visitors to have access to areas of the hospital and/or patients in order for the Board of Visitors to carry out its duties under Title 53, Chapter 21, Part 1, MCA.

- E. This policy is intended to provide the broadest possible access in a manner which respects patient privacy, is least disruptive to the therapeutic purpose of the hospital, and protects the safety of patients, staff and the public.

- F. Except as specifically provided otherwise in this policy, Board of Visitors access will be subject to MSH policy # FP-04, "Forensic (D Unit) Security Procedures".

III. DEFINITIONS:

- A. **Montana Mental Disabilities Board of Visitors (Board of Visitors):** The Board of Visitors is a State board established by § 2-15-211, MCA, attached to the Governor's Office.

- B. **Board of Visitors Staff:** Board of Visitors staff consist of an attorney and a paralegal based at MSH (MSH-based staff). Its executive director and advocacy specialist are located in Helena (Helena-based staff). All are State employees and have state-issued identification identifying them as employees of the Board of Visitors.

- C. **Board of Visitors Members:** Board of Visitors members are appointed by the Governor. Board members have state-issued identification identifying them as members of the Board of Visitors.
- D. **Board of Visitors Consultants:** The Board of Visitors employs consultants in various disciplines for the purpose of conducting inspections. Consultants may or may not have state-issued or other photographic identification badges.

IV. RESPONSIBILITIES:

MSH Staff and Administration are to allow Board of Visitor staff, members, and consultants access to facilities and patients as provided in this policy.

V. PROCEDURE:*

- A. MSH Administrator or designee responds to Board of Visitors announcement of inspections, and coordinates Board of Visitors interviews with staff and patients as requested.
- B. The MSH Receptionist issues a visitor's badge to each Board of Visitors staff, member, and consultant who is not wearing their state-issued identification badges during inspections.

C. ACCESS TO AREAS:

- 1. **MSH-based staff of the Board of Visitors** have the same access as MSH direct care staff to areas of the facilities which are used by patients or are accessible to patients. They are issued key fobs pursuant to MSH Policy HR-1, "Access Control – Keys". The MSH-based Board of Visitors staff will be permitted to visit areas not accessible to patients.

MSH-based Board of Visitors staff are not required to check in with the receptionist or be subject to MSH Policy ADM-08, "Patient Visitation". Board of Visitors staff is expected to wear visible State employee identification at all times when on MSH property.

- 2. **Helena-based staff and members of the Board of Visitors conducting inspections** will be permitted access to the facility. At a minimum, access will be provided during normal working hours and visiting hours. Inspection-related access to areas of MSH will be arranged through the MSH Administrator or designee. MSH staff will accompany Board of Visitors Helena-based staff, Board members and consultants during inspections when needed.

* This procedure is MSH's preferred method of implementing the policy.

D. ACCESS TO PATIENTS:

1. **MSH-based staff of the Board of Visitors** have access to patients at all reasonable hours, including, at a minimum, normal working hours and visiting hours. Board of Visitors staff is expected to coordinate their interviews with patients so as not to interfere with therapeutic activities. MSH staff will assist patients to schedule meetings with Board of Visitors staff at appropriate times.
2. **Helena-based staff and members of the Board of Visitors conducting inspections** are afforded private interviews with patients for the purposes of completing their inspections, with each patient's consent. Such access will include, at a minimum, normal working hours and visiting hours. MSH staff will coordinate interviews so as not to interfere with therapeutic activities. MSH staff will personally introduce Board of Visitors staff, members and consultants to individual patients prior to interviews.

VI. REFERENCES: § 2-15-211, MCA (*Mental disabilities board of visitors - composition - allocation*); § 53-21-104, MCA (*Powers and duties of the mental disabilities board of visitors*); MSH Policy ADM-08, Patient Visitation; MSH Policy FP-04, Forensic (D Unit) Security Procedures.

VII. COLLABORATED WITH: Director of Nursing, Director of Health Information, Director of Clinical Services, AMDD Administrator, and DPHHS Office of Legal Affairs.

VIII. RESCISSIONS: ADM-14, *Access to Patient and Treatment Areas by Mental Disabilities Board of Visitors* dated April 8, 2016; ADM-14, *Access to Patients and Treatment Areas by Mental Disabilities Board of Visitors Staff* 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: None.

Signatures:

Kyle Fouts
Hospital Administrator