



MONTANA STATE HOSPITAL POLICY AND PROCEDURE

DISCHARGE OR CONDITIONAL RELEASE FROM CIVIL COMMITMENT

Effective Date: October 18, 2016

Policy: AD-02

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- 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, 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 Licensed Independent Practitioner 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 Licensed Independent Practitioner 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 Licensed Independent Practitioner, 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. Licensed Independent Practitioner – 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 Licensed Independent Practitioner, 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.

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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 Licensed Independent Practitioner has determined the patient is ready for discharge or conditional release they will request that the social worker provide statutory notifications, 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 Licensed Independent Practitioner 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 Licensed Independent Practitioner 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 Licensed Independent Practitioner 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 Licensed Independent Practitioner 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 Licensed Independent Practitioner will order recommended medicine for the patient at discharge or conditional release. The Licensed Independent Practitioner 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 Licensed Independent Practitioner will consult with the Hospital Administrator about large or very expensive medicine orders.
3. The nurse responding to the Licensed Independent Practitioner'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.

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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 Licensed Independent Practitioner 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:

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- 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,
- 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: For internal use only.

- 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

Signatures:

Jay Pottenger
Hospital Administrator

Thomas Gray, M.D.
Medical Director