



MONTANA STATE HOSPITAL POLICY AND PROCEDURE

FORENSIC REVIEW BOARD

Effective Date: June 12, 2020

Policy: FP-01

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I. **PURPOSE:** To define the structure and function of the Forensic Review Board (FRB).

II. **POLICY:**

A. Montana State Hospital (MSH) will have a FRB responsible for providing a clinical and administrative review of treatment team recommendations for the following:

1. Privileges to attend activities on the hospital grounds without staff escorts.
2. Treatment and Leisure Pass on the hospital grounds (MSH policy TX-04, Treatment and Leisure Pass).
3. Privileges to attend activities (other than medical appointments/procedures or court hearings) off the hospital grounds.
4. Placement in other mental health programs or facilities.
5. Placement in Department of Corrections programs or facilities.
6. Discharge to the community.
7. Other actions as requested by the patient's treatment team, the Medical Director, the Hospital Administrator.

B. The Board will be comprised of five members:

1. Hospital Administrator (Chair),
2. Medical Director,
3. Director of Nursing, and
4. Two other members of the Hospital's clinical staff appointed by the Administrator.

III. **DEFINITIONS:**

A. **Forensic Patient:** A patient at the Hospital due to their involvement with the criminal justice system. Generally, these patients are on one of the following types of commitment: Court Ordered Evaluation (COE), Unfit to Proceed (UTP), Not Guilty by Reason of Mental Illness (NGMI), Guilty but Mentally Ill (GBMI). Also, may include patients on civil commitments transferred from Montana Department of Corrections facilities, and may include patients on civil commitments who are known to have committed serious criminal acts.

B. **Licensed Independent Practitioner:** A physician or APRN and/or CNS who is a member of the MSH medical staff and attends to the care of MSH patients.

- C. **Treatment Team:** The treatment team responsible for the forensic patient's care.
- D. **Division:** The Addictive and Mental Disorders Division (AMDD) of the Department of Public Health and Human Services (DPHHS).
- E. **Department:** DPHHS.
- F. **Administrator:** The Administrator of AMDD.
- G. **Director:** The Director of DPHHS.
- H. **Board:** The Forensic Review Board (FRB).

IV. **RESPONSIBILITIES:**

- A. **Forensic Review Board:** Reviews and votes on treatment team recommendations regarding privileges and placement of forensic patients.
- B. **Hospital Administrator or designee:** Schedules and chairs FRB meetings. Also, for reviews, approves, and forwards FRB recommendations to the attending Licensed Independent Practitioner, Administrator, and Director, or others as required.
- C. **Medical Director:** Chairs FRB meetings in the Hospital Administrator's absence.
- D. **Board Members:** Contribute time and effort to assure the committee remains active, well informed, and responsive to the Hospital and forensic team. Each member is expected to attend and participate in Board meetings.

V. **PROCEDURE:**

- A. To request approval for an increase in privileges for a forensic patient:
 - 1. The attending Licensed Independent Practitioner will verbally request a FRB meeting.
 - 2. Upon receipt of the request, the Hospital Administrator or designee will schedule a meeting of the Board. Meetings will normally be scheduled for a regular day and time, but may be changed as needed. The Hospital Administrator or designee will provide copies of written information submitted by the treating team.
 - 3. The attending Licensed Independent Practitioner and/or other staff will make an oral presentation to the Board. The format for the presentation is provided in Attachment A.

4. The Board will hear the presentation, interview the patient (if desired), discuss the case, and vote.
 5. Following the vote, the patient's attending Licensed Independent Practitioner ensures the FRB decision is conveyed to the patient in a timely manner (unless contraindicated).
 6. The FRB may seek a legal opinion any time it is determined to be necessary or advisable. The Chair may suspend, delay and reschedule proceedings as a result of this action.
 7. The treatment team prepares a final report which includes the information presented to the FRB, a summary of the presentation and the Board's action, in the format indicated in Attachment A. This report will be signed by treatment team members, FRB members, the Medical Director, and the Hospital Administrator or designee.
- B. In the case of a recommendation for discharge or alternative placement:
1. The attending Licensed Independent Practitioner may ask to convene the meeting without notice to the patient when doing so could compromise the safety or security of the facility or any person.
 2. The Chairperson will submit all recommendations to the DPHHS Attorney who will advise the Director of DPHHS. The DPHHS Attorney will file petitions or other documents with District Court when required.
 3. When a recommendation for transfer to a correctional facility is made, the patient need not be notified of the Board's action until the time of transfer in order to avoid a possible compromise of safety or security.
 4. A forensic patient may be transferred to a correctional facility on an emergency basis with approval of the DPHHS and DOC Directors. In such an instance, a FRB meeting will review the transfer after it has taken place.
- C. Forensic Review Board Procedure:
1. When a regular member of the FRB is not available for a meeting, the Chair may request another employee to participate on the Board.
 2. Members of the presenting treatment team may participate in the discussion, but may not vote.

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3. Advocates or other parties requested by the patient may attend the meeting with the patient and address the Board. However, they may not vote on the recommended action.
 4. *Voting Quorum*: A minimum of five (5) members of the FRB must be present in order for the Board to take action on a recommendation.
 5. Other parties may observe FRB meetings if approved by the patient and by the Chair. Students will not attend FRB meetings.
- D. *Hospital Administrator Approval*: The Board's recommendations do not become final until the Hospital Administrator or designee grants approval. The Hospital Administrator may turn down or modify the Board's recommendations.
- VI. REFERENCES**: Patterson and Wise, "The Development of Internal Forensic Review Boards in the Management of Hospitalized Insanity Acquirees," J AM Acad Psychiatric Law, Vol. 26, No 44, 1998.
- VII. COLLABORATED WITH**: Hospital Administrator, Medical Director, Forensic Program Psychiatrist.
- VIII. RESCISSIONS**: FP-01, *Forensic Review Board* dated May 26, 2016; FP-01, *Forensic Review Board* dated February 28, 2011; FP-01, *Forensic Review Board* dated May 19, 2010; FP-01, *Forensic Review Board* dated January 14, 2008; FP-01, *Forensic Review Board* dated March 28, 2002; FP-01, *Forensic Review Board* dated March 21, 2000.
- 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**: Medical Director.
- XI. ATTACHMENTS**: For internal use only.

A. FRB Report Format

Signatures:

Kyle Fouts
Hospital Administrator

Thomas Gray, M.D.
Medical Director