

Health Systems Division: Behavioral Health Services - Chapter 309

August 5, 2019

Round 1 Redline

Division 91. OSH: ~~STATE HOSPITAL~~ ADMISSIONS AND DISCHARGES

309-091-0000 Purpose and Scope

(1) These rules establish and define the criteria which support the proper management and utilization of services provided by the Oregon ~~s~~State ~~H~~Hospital (OSH) system, by limiting admissions to those most severely symptomatic individuals whose treatment and recovery needs cannot be met in a community treatment setting.

(2) These rules apply to all individuals admitted into any ~~state hospital-OSH~~ setting, and address differences which occur due to each individual's legal status.

Statutory/Other Authority: ORS 413.042

Statutes/Other Implemented: ORS 179.321, 426.010, 426.020 & 426.072

History:

MHS 6-2012, f. 5-3-12, cert. ef. 5-4-12

MHS 16-2011(Temp), f. 12-29-11, cert. ef. 1-1-12 thru 6-29-12

309-091-0005 Definitions

In addition to the definitions listed in OAR 309-001-0100, the following definitions apply with respect to this OAR chapter 309, division 091.

~~(1) “Authority” means the Oregon Health Authority.~~

~~(12) “Chief Medical Officer” (CMO) means the physician designated by the OSH superintendent of each state institution who is responsible for the administration of medical treatment, or his or her designee.~~

~~(23) “Choice Contractor” means a corporation, governmental agency, public corporation, or other legal entity that provides coordination of care services to individuals with SPMI, as directed in contract with the Health Systems Division.~~

~~(43) “Civil Commitment” means the individual has been committed to the Authority for emergency psychiatric care and treatment pursuant to ORS 426.070, 426.228 to 426.235 or 426.237.~~

~~(45) “Clinical Reviewer” means the Division employee designated to the role of determining eligibility for OSH state hospital admissions.~~

~~(6) “Community Mental Health Program” (CMHP) means an entity that is responsible for planning and delivery of safety net services for persons with mental or emotional disturbances, drug abuse problems, and alcoholism and alcohol abuse, in a specific geographic area of the state, under a contract with the Division or a local mental health authority.~~

~~(7) “Coordinated Care Organization” (CCO) means a corporation, governmental agency, public corporation, or other legal entity, that is certified as meeting the criteria adopted by the Oregon Health Authority, under ORS 414.625, to be accountable for care management, and to provide integrated and coordinated healthcare, for each of the organization’s members.~~

~~(8) “Division” means the Health Systems Division of the Oregon Health Authority.~~

~~(9) “DSM” means the most recent edition of the Diagnostic and Statistical Manual of Psychiatric Disorders, published by the American Psychiatric Association.~~

~~(150) “DOC” means the Oregon Department of Corrections.~~

~~(116) “Forensic” means related to the law, and references individuals committed to treatment and supervision by the courts pursuant to Oregon Revised Statutes (ORS) 161.290 – 161.400.~~

~~(712) “Health care representative” means:~~

(a) An attorney-in-fact:

(b) A person who has authority to make health care decisions for a principal under the provisions of ORS 127.635 (2) or (3);

(c) A guardian or other person, appointed by a court to make health care decisions for a principal.

~~(13) “Legal Guardian” in this rule means an individual appointed by a court of law to act as guardian of an adult having been determined to be legally incapacitated.~~

~~(814) “Licensed Residential Facility or Licensed Residential Home” means those residences defined in OAR 309, Chapter 035.~~

~~(15) “Local Mental Health Authority” (LMHA) means one of the following entities:~~

~~(a) The Board of County Commissioners of one or more counties that establishes or operates a CMHP;~~

~~(b) The tribal council of a federally recognized tribe of Native Americans that elects to enter into an agreement to provide mental health services or~~

~~(c) A regional LMHA comprised of two or more boards of county commissioners.~~

~~(916) “Primary Diagnosis” means the diagnosis which identified the condition considered the most severe for which the individual receives treatment.~~

~~(107) “Psychiatric Security Review Board” (PSRB) means board appointed by the Governor and authorized in ORS 161.385.~~

~~(118) “Ready to Transition” means a patient no longer meets admission criteria for hospitalization.~~

~~(19) “Ready to Transition” means a patient no longer meets admission criteria for hospitalization.~~

~~(1220) “Responsible Party” means the LMHA, community mental health program, Medicaid Coordinated Care Organization, Choice Model contractor, and when applicable the individual’s legal guardian or health care representative, and other parties identified by the Oregon Health Authority~~

~~(21) “Serious and Persistent Mental Illness” (SPMI) means the current DSM diagnostic criteria for at least one of the following conditions, as a primary diagnosis, for an adult age 18 years or older:~~

~~(a) Schizophrenia and other psychotic disorders;~~

~~(b) Major Depressive Disorder;~~

~~(c) Bipolar Disorder;~~

~~(d) Anxiety disorders limited to Obsessive Compulsive Disorder (OCD) and Post Traumatic Stress Disorder (PTSD);~~

~~(e) Schizotypal Personality Disorder; or~~

~~(f) Borderline Personality Disorder.~~

~~(22) “State Hospital” means any campus of the Oregon State Hospital (OSH) system.~~

(~~2313~~) "OYA" means the Oregon Youth Authority

(~~1424~~) "~~PAITS~~" means Post Acute Intermediate Treatment Service" (PAITS) is a mix of rehabilitation services designed for adults who
_have received acute psychiatric care services in a local hospital, ~~who~~ have been approved for Long Term Psychiatric
_Care, ~~and had whose~~ symptoms ~~havethat~~ improved, sufficiently, such that they no longer require hospital level of care, yet, still
_require intensive treatment services to continue psychiatric stabilization, prior to placement, in another community setting.

Statutory/Other Authority: ORS 413.042

Statutes/Other Implemented: ORS 179.321, 426.010, 426.020, 426.072, ORS 125.300 to 125.330 & ORS 127.005 to 127.660

History:

BHS 8-2019, amend filed 06/24/2019, effective 06/24/2019

BHS 1-2019, temporary amend filed 01/04/2019, effective 01/04/2019 through 07/02/2019

MHS 6-2012, f. 5-3-12, cert. ef. 5-4-12

MHS 16-2011(Temp), f. 12-29-11, cert. ef. 1-1-12 thru 6-29-12

**309-091-0010 ~~Civilly Committed, Guardian and Health Care Representative Authorized~~
Admission Criteria**

Each non-forensic individual admitted to ~~a state hospital~~OSH must meet the following criteria:

- (1) The individual must be age 18 or older;
- (2) The individual must be named in a current civil commitment order, or the individual's legal guardian or health care representative must have signed consent for admission;
- (3) There must be recent documentation by a ~~Psychiatrist~~, Psychiatric Nurse Practitioner, Psychologist, Licensed Clinical Social Worker, or Physician's Assistant that the individual is experiencing Serious and Persistent Mental Illness; and
- (4) The current symptoms must be of such severity that the resulting symptoms require extended placement in a 24-hour medically supervised psychiatric hospital. Severity is established by a determination of:
 - (a) The degree of dangerousness to self;
 - (b) The degree of dangerousness to others; and
 - (c) The degree of the individual's inability to meet his or her basic health and safety needs.

Statutory/Other Authority: ORS 413.042

Statutes/Other Implemented: ORS 179.321, 426.010, 426.020 & 426.072

History:

BHS 8-2019, amend filed 06/24/2019, effective 06/24/2019

BHS 1-2019, temporary amend filed 01/04/2019, effective 01/04/2019 through 07/02/2019

MHS 6-2012, f. 5-3-12, cert. ef. 5-4-12

MHS 16-2011(Temp), f. 12-29-11, cert. ef. 1-1-12 thru 6-29-12

309-091-0015 Determining Need for ~~State Hospital~~ OSH Care

(1) OSH care is intended to provide recovery-oriented intervention for individuals experiencing symptoms related to SPMI. ~~(1) State hospital~~ OSH level of care is determined appropriate when:

(a) the individual's condition or symptoms have not improved in an acute care setting despite having received a comprehensive psychiatric and medical assessment, and treatment with medications for at least 7 days at an adequate dose; and

(b) the individual continues to require hospital level of care services, as evidenced by his or her failure to meet ~~OSH~~the state hospital's criteria for readiness to transition

(2) Prior to referral for admission to ~~OSH~~a state hospital, the individual should have received:

(a) A comprehensive medical assessment to identify conditions that may be causing, contributing to, or exacerbating the mental illness;

(b) Services from an appropriate medical professional for the treatment and stabilization of any medical or surgical conditions that may be contributing to or exacerbating the mental illness and

(c) There must be evidence of additional treatment and services having been attempted, including:

(A) Use of evidence-based or promising psychosocial interventions ~~which that~~ were delivered in relevant culturally-competent, strength-based, person-centered and trauma-informed manners and ~~which that~~ adequately treated the assessed ~~and/or~~ expressed needs of the individual. Treatments should include members of the individual's family, support network and Peer Delivered Services, unless the individual does n'ot consent.

(B) Documentation of ongoing review and discussion, ~~by~~ hospital staff and the responsible party, ~~of~~ options for discharge to non-hospital levels of care; and

(C) Documentation of services and supports attempted by the responsible party to divert an individual from acute ~~admission~~ and establish treatment and recovery in a non-hospital setting.

(3) To make a referral for admission to ~~a state hospital~~OSH, the responsible party shall ensure all of the following documentation is provided:

(a) Request for OSH and PAITS Services form; ~~and~~

(b) Community Questionnaire form, ~~to include~~ing the OSH discharge plan, developed by the responsible party; ~~and~~

(c) Patient demographic information; ~~and~~

(d) Civil Commitment documents, ~~to including include, a~~ Commitment Judgment or Order, ~~and~~ pre-commitment investigations; ~~or~~

~~(e)g~~ Guardianship orders, ~~or or~~ health care representative forms; and

~~(ef)~~ History and Physical; ~~and~~

~~(fg)~~ Psychosocial assessment, if available; ~~and~~

~~(gh)~~ Progress notes, from admission; ~~and~~

~~(hi)~~ Medication Administration Record; ~~and~~

~~(ij)~~ Labs and other diagnostic testing; ~~and~~

~~(jk)~~ Involuntary Administration of Significant Procedures documentation, if applicable.

(4) If the referral is approved, a written notice will be provided to acute care, and the responsible party.

(5) If the referral is denied, a letter of denial will be provided within 72 hours, that to includes a rationale for denial, ~~within 72 hours;~~

(a) The individual, provider of acute care services, or responsible party, can appeal the denial, by submitting a written request, to the ~~OHA d~~ Director, of the Authority or the designee; and

(b) The ~~OHA d~~ Director, or designee, will provide a written response to the appeal

Statutory/Other Authority: ORS 413.042

Statutes/Other Implemented: ORS 179.321, 426.010, 426.020 & 426.072

History:

BHS 8-2019, amend filed 06/24/2019, effective 06/24/2019

BHS 1-2019, temporary amend filed 01/04/2019, effective 01/04/2019 through 07/02/2019

MHS 6-2012, f. 5-3-12, cert. ef. 5-4-12

MHS 16-2011(Temp), f. 12-29-11, cert. ef. 1-1-12 thru 6-29-12

309-091-0025 Exclusion Criteria and Exceptions

~~(1) State hospitals are intended to provide recovery oriented intervention for individuals experiencing symptoms related to SPMI.~~

(21) Admissions must not be based upon a primary diagnosis of the following related conditions:

(a) An acute or existing medical or surgical condition ~~which that~~ requires primary placement in a medical setting and ~~which that~~ cannot be safely or adequately treated within an ~~OSH state hospital~~ facility;

(b) Delirium;

(c) Neurodevelopmental Disorders;

(d) Neurocognitive Disorders;

(e) Substance Use ~~or Substance Abuse~~ Disorders; or

(f) Personality Disorder, except Borderline and Schizotypal Personality Disorders, with psychotic symptoms.

(23) Administrative transfers from the Oregon Department of Corrections of individuals for the purpose of treatment may occur in accordance with OAR ~~chapter 291, division -047-0021~~. Individuals civilly committed upon discharge from the Oregon Department of Corrections must meet the admission criteria and the process defined in this rule.

(43) Administrative transfers from the Oregon Youth Authority of individuals over the age of 18 for the purpose of stabilization and evaluation not exceeding 30 days may occur in accordance with OAR ~~chapter 416, division -425-020~~.

(a) Individuals transferred for the purpose of stabilization and evaluation for a period of time exceeding 30 days may occur in accordance with OAR ~~chapter 416, division -425-020~~.

(b) Individuals over the age of 18 who are civilly committed upon discharge from the Oregon Youth Authority must meet the admission criteria and the process defined in this rule.

(45) Individuals ending jurisdiction of Department of Corrections, Oregon Youth Authority (if over 18 years of age), Psychiatric Security Review Board, and those committed to OSH under ORS 161.315, 161.365, or 161.370, may only be admitted according to the criteria and process outlined in this rule.

(a) On rare occasions, individuals who are housed at OSH, may continue to stay at OSH, when civilly committed, without first being admitted to acute care.

(56) Individuals, and guardians ~~on behalf of a protected person,~~ may make a request for admission, directly to the ~~OSH Superintendent of the Oregon State Hospital~~.

(a) an individual, or guardian, ~~may will~~ submit a written request, including any additional documentation supporting the request, to the Superintendent, or designee.

(b) The Superintendent, or designee, will review the request. If the Superintendent, or designee, determines that the individual is in need of immediate care for mental illness, the individual may be admitted, independent of admission criteria and process defined in this rule.

Statutory/Other Authority: ORS 413.042

Statutes/Other Implemented: ORS 179.321, 426.010, 426.020 & 426.072

History:

BHS 8-2019, amend filed 06/24/2019, effective 06/24/2019

BHS 1-2019, temporary amend filed 01/04/2019, effective 01/04/2019 through 07/02/2019

MHS 6-2012, f. 5-3-12, cert. ef. 5-4-12

MHS 16-2011(Temp), f. 12-29-11, cert. ef. 1-1-12 thru 6-29-12

309-091-0030 Discharge Planning

- (1) The responsible parties shall participate in discharge planning, throughout the patient's hospitalization.
- (2) ~~OSH~~~~The state hospital~~ will notify the responsible parties of each admission, campus transfer, and determination related to assessing discharge readiness.
- (3) ~~OSH~~~~The state hospital~~ will make clinical recommendations for services needed to support the continuity of care to maintain the individual's stability in the community.
- (4) The responsible party must arrange housing, treatment and other services assessed as needed to support the continuity of care necessary to maintain the individual's stability in the community.

Statutory/Other Authority: ORS 413.042

Statutes/Other Implemented: ORS 179.321, 426.010, 426.020 & 426.072

History:

BHS 8-2019, amend filed 06/24/2019, effective 06/24/2019

BHS 1-2019, temporary amend filed 01/04/2019, effective 01/04/2019 through 07/02/2019

MHS 6-2012, f. 5-3-12, cert. ef. 5-4-12

MHS 16-2011(Temp), f. 12-29-11, cert. ef. 1-1-12 thru 6-29-12

309-091-0035 Discharge Criteria and Procedures for Civil Commitment, or Guardian, or Health Care Representative

(1) ~~The state hospital OSH,~~ or a designee, will periodically assess the individual's continued need for ~~state hospital OSH~~ level of care, and readiness to transition, based upon the admission criteria established in these rules.

(2) ~~The state hospital OSH~~ retains the authority to solely determine when someone no longer needs ~~state hospital~~ OSH level of care based on standardized criteria adopted by the hospital.

(3) An individual who is determined to be ready to transition may later be determined not ready to transition, and removed from the ready to transition list.

(4) Prior to an individual no longer needing ~~state hospital OSH~~ level of care, the hospital will collaborate with the responsible party, to recommend services and supports for the patient.

Statutory/Other Authority: ORS 413.042

Statutes/Other Implemented: ORS 179.321, 426.010, 426.020 & 426.072

History:

BHS 8-2019, amend filed 06/24/2019, effective 06/24/2019

BHS 1-2019, temporary amend filed 01/04/2019, effective 01/04/2019 through 07/02/2019

MHS 6-2012, f. 5-3-12, cert. ef. 5-4-12

MHS 16-2011(Temp), f. 12-29-11, cert. ef. 1-1-12 thru 6-29-12

309-091-0040 Forensic Admissions ~~Criteria and Procedures~~

Forensic admissions will occur as prescribed in ORS 161.327, 161.328, 161.365, 161.370.

Statutory/Other Authority: ORS 413.042

Statutes/Other Implemented: ORS 179.321, 426.010, 426.020 & 426.072

History:

MHS 6-2012, f. 5-3-12, cert. ef. 5-4-12

MHS 16-2011(Temp), f. 12-29-11, cert. ef. 1-1-12 thru 6-29-12

~~309-091-0045 Forensic Discharge Criteria and Procedures~~

~~(1) Individuals admitted by court order after a finding of guilty except for insanity of a felony will be discharged when approved by the PSRB.~~

~~(2) Individual admitted by court order after a finding of guilty except for insanity of a misdemeanor will be discharged when approved by the Superintendent of the state hospital.~~

~~(3) Individuals whose jurisdiction under the PSRB has ended as identified by the state hospital Legal Department shall be allowed to discharge of the final day of PSRB jurisdiction unless the hospital determines the need for civil commitment or some other legal hold.~~

~~(4) The responsible party will assess individuals ending jurisdiction and when determined appropriate, arrange housing, treatment and other services assessed as needed to support the continuity of care necessary to maintain the individual's stability in the community.~~

~~Statutory/Other Authority: ORS 413.042~~

~~Statutes/Other Implemented: ORS 179.321, 426.010, 426.020 & 426.072~~

~~History:~~

~~BHS 8-2019, amend filed 06/24/2019, effective 06/24/2019~~

~~BHS 1-2019, temporary amend filed 01/04/2019, effective 01/04/2019 through 07/02/2019~~

~~MHS 6-2012, f. 5-3-12, cert. ef. 5-4-12~~

~~MHS 16-2011(Temp), f. 12-29-11, cert. ef. 1-1-12 thru 6-29-12~~

309-091-0050 ~~Other~~ Forensic Discharges

(1) For the purposes of this rule, discharge occurs when ~~OSH~~~~the state hospital~~ moves the individual from the ~~state hospital's~~~~OSH~~ psychiatric care to either a community setting or other institutional setting, including but not limited to discharge to a jail.

~~(2)~~ Individuals admitted by court order after a finding of guilty except for insanity of a felony will be discharged when approved by the PSRB.

~~(3)~~ Individual admitted by court order after a finding of guilty except for insanity of a misdemeanor will be discharged when approved by the Superintendent of the state hospital.

~~(3)~~ (a) Individuals whose jurisdiction under the PSRB has ended as identified by the state hospital Legal Department shall be allowed to be discharged ofn the final day of PSRB jurisdiction unless the hospital determines the need for civil commitment or some other legal hold.

~~(b)~~ The responsible party will assess individuals ending jurisdiction and when determined appropriate, arrange housing, treatment and other services assessed as needed to support the continuity of care necessary to maintain the individual's stability in the community.

~~(25)~~ For individuals committed to the state hospital~~OSH~~ pursuant to ORS 161.370:

(a) Individuals shall be discharged from ~~the state hospital~~~~OSH~~ upon any of the following:

~~(a)~~ The court orders that the individual be discharged from ~~OSH~~~~the state hospital~~ or that the underlying criminal charges be dismissed;

~~(B)~~ When the ORS 161.370 or 161.365 evaluation report identifies the patient as either "never able" or "able" to aid in the patient's own defense, or when the patient has reached the maximum commitment time under ORS 161.370 or 161.365.

~~(3b)~~ The state hospital~~OSH~~ shall send notice of the evaluation finding to the court pursuant to ORS 161.370 or 161.365.

~~(c4)~~ Individuals who are committed under ORS 161.370~~Individuals~~ shall be discharged within a period of time that is reasonable for making a determination concerning whether or not and when the defendant may gain or regain capacity. ~~However, r~~Regardless of the number of charges with which the defendant is accused, in no event shall the defendant be committed for longer than whichever of the following is shorter, as measured from the defendant's initial custody date, is shorter:

~~(A)~~ Three years; or

~~(B)~~ A period of time equal to the maximum sentence the court could have imposed if the defendant had been convicted of charges.

~~(5d)~~ For purposes of calculating the maximum period of commitment~~described in subsection (4):~~

(~~a~~A) The initial custody date is the date on which the defendant is first committed under this section on any charge alleged in the accusatory instrument; and

(~~B~~b) The defendant shall be given credit against each charge alleged in the accusatory instrument:

(iA) For each day the defendant is committed under this section, whether the days are consecutive or are interrupted by a period of time during which the defendant has gained or regained fitness to proceed; and

(~~B~~ii) ~~Unless the defendant is charged with aggravated murder or a crime listed in ORS 137.700(2), f~~or each day the defendant is held in jail, whether the days are consecutive or are interrupted by a period of time during which the defendant lacks fitness to proceed, unless the defendant is charged with aggravated murder or a crime listed in ORS 137.700(2).

Statutory/Other Authority: ORS 161.370 & ORS 413.042

Statutes/Other Implemented: ORS 161.370, HB 2308 (2017), ORS 179.321, ORS 426.010, ORS 426.020, ORS 179.360 & SB432 (2011)

History:

BHS 8-2019, amend filed 06/24/2019, effective 06/24/2019

BHS 1-2019, temporary amend filed 01/04/2019, effective 01/04/2019 through 07/02/2019

BHS 14-2018, amend filed 06/27/2018, effective 07/10/2018

MHS 1-2018, temporary amend filed 02/02/2018, effective 02/02/2018 through 07/31/2018

MHS 3-2016, f. & cert. ef. 4-28-16

Reverted to MHS 6-2012, f. 5-3-12, cert. ef. 5-4-12

MHS 7-2015(Temp), f. & cert. ef. 10-28-15 thru 4-22-16

MHS 6-2012, f. 5-3-12, cert. ef. 5-4-12

MHS 16-2011(Temp), f. 12-29-11, cert. ef. 1-1-12 thru 6-29-12