

# Health Systems Division: Behavioral Health Services - Chapter 309

August 5, 2019

## Round 1 Redline

### Division 108. OSH: HANDLING OF PERSONAL PROPERTY OF PATIENTS AND RESIDENTS ~~IN STATE INSTITUTIONS~~

#### 309-108-0000 Purpose and ~~Statutory Authority~~ Scope

(1) ~~Purpose~~—These rules prescribe procedures for the handling of personal property of [Oregon State Hospital \(OSH\)](#) patients and residents ~~in state institutions~~.

(2) ~~Statutory Authority~~—These rules are authorized by ORS 179.040 and 413.042 and carry out the provisions of ORS 426.385.

Statutory/Other Authority: ORS 179.040 & 413.042

Statutes/Other Implemented: ORS 179.321 & 426.385

History:

MHD 7-1986, f. & ef. 9-4-86

MHD 30-1982, f. 12-28-82, ef. 1-28-83

### 309-108-0005 Definitions

In addition to the definitions listed in OAR 309-001-0100, the following definitions apply with respect to this OAR chapter 309, division 108.

As used in these rules:

~~(1) "Administrator" means the Assistant Director, Human Resources, and Administrator for Mental Health.~~

~~(2) "Division" means the Addictions and Mental Health Division of the Oregon Health Authority.~~

~~(13) "Patient" means a person who is receiving care or and treatment in a OSH state institution for the mentally ill.~~

~~(24) "Prohibited Item" means:~~

~~(a) Alcoholic beverages, controlled substances, and prescription and non-prescription drugs or medications;~~

~~(b) Any item that reasonably can be used as a weapon or instrument of escape;~~

~~(c) Any item the possession of which is detrimental to the treatment and training or health and safety of the patients or residents in a particular unit, suite, or cottageward or cottage and which is prohibited in writing and posted on the affected unit, suite, or cottageward or cottage; and~~

~~(d) Any item the whose possession of which is detrimental to the treatment and training of an individual patient or resident and which is recorded in the treatment and training orders section of the patient's or resident's chart by the treating attending practitioner physician, or qualified mental retardation professional.~~

~~(35) "Qualified Mental Retardation Professional" means a person who meets the professional requirements prescribed by 42 CFR 442.401 or as amended.~~

~~(46) "Reasonable Cause" means that the person has knowledge or notice of facts and circumstances which would lead a person of ordinary care and prudence to have a strong suspicion.~~

~~(57) "Search" means a close inspection of a patient or resident's person, and a patient or resident's room or living area and personal property whenever there is a reasonable cause that said patient or resident may be in possession of a prohibited item.~~

~~(68) "Resident" means a person who is receiving care or treatment in an OSH institution, licensed at less than hospital level, including but not limited to a Residential Treatment Facility or a Secure Residential Treatment Facility. "Resident" means a person who is receiving care, treatment, and training in an OSH state institution for the mentally retarded.~~

~~(9) "State Institution" means Dammasch State Hospital in Wilsonville, Oregon State Hospital in Salem, Fairview Training Center in Salem, and Eastern Oregon Psychiatric Center and Eastern Oregon Training Center in Pendleton.~~

~~(10) "Superintendent" means the executive head of the state institution as listed in section (9) of this rule.~~

Statutory/Other Authority: ORS 179.040 & 413.042

Statutes/Other Implemented: ORS 179.321 & 426.385

History:

MHD 7-1986, f. & ef. 9-4-86

MHD 30-1982, f. 12-28-82, ef. 1-28-83

### 309-108-0010 Policy

(1) All patients and residents shall have the right to retain and use on each ~~unit, suite, or cottage~~~~ward or cottage~~ reasonable amounts of personal property, other than prohibited items. ~~State institutions-OSH campuses~~ shall provide on each ward or cottage private, adequate, and accessible storage for reasonable amounts of personal property:

(a) Patients and residents needing specific assistance in exercising the right to retain and use personal property shall receive such assistance. This shall be documented in the treatment or training plan;

(b) ~~OSH~~~~Each state institution~~ shall develop procedures to protect the personal property of patients and residents against theft by other patients and residents.

(2) ~~State institutions~~~~OSH~~ shall designate one or more locations for storage of reasonable amounts of excess personal property. Excess personal property is property which cannot be stored on the patient's or resident's ward or cottage due to size or amount.

(3) ~~OSH~~ ~~State institutions~~ shall provide a secure location for storage of patients' and residents' valuables. Valuables include, but are not limited to, stocks, bonds, jewelry, cash above the amount permitted on the ward or cottage, heirlooms, credit cards, driver's license and any other small item, excluding prohibited items and excess property, ~~which a patient or resident wants retained in a secure location.~~

(4) Excess property and valuables shall be returned to the patient or resident upon release or discharge of the patient or resident, or upon request of the patient or resident if there is space available on the ~~unit, suite, or cottage~~~~ward or cottage~~ to accommodate it.

(5) Prohibited items shall be handled as provided in OAR ~~chapter 309, division -108-0015~~(6).

(6) ~~State institutions-OSH~~ may restrict the amount of cash allowed to be retained by patients or residents on the living unit.

(7) A patient ~~or~~/resident may be searched by ~~OSH-Division~~ personnel whenever said personnel have reasonable cause to believe that a patient ~~or~~/resident may be in possession of a prohibited item.

(8) No employee or any person acting through, or on behalf of ~~the OSH-Division~~ shall censor a patient's or resident's personal property unless there is reasonable cause to believe that such item is contrary to the treatment and training goals of the individual. Such censorship must be documented in the patient's or resident's record by the treating physician ~~or qualified mental retardation professional~~ with supporting documentation, as necessary and communicated to the patient or resident in writing.

(9) Patients and residents shall have the right to appeal the application of any portion of these rules as provided in OAR ~~chapter 309, division -118-0000 through 309-118-0050~~ (~~Grievance Procedures for Use in State Institutions~~).

(10) Violation of the rights, policies, and procedures set forth in these rules by an employee of the ~~Division-OSH~~ constitutes cause for disciplinary action.

Statutory/Other Authority: ORS 179.040 & 413.042

Statutes/Other Implemented: ORS 179.321 & 426.385

History:

MHD 7-1986, f. & ef. 9-4-86

MHD 30-1982, f. 12-28-82, ef. 1-28-83

### 309-108-0015 Procedures

(1) All personal property that a patient or resident brings into ~~OSH the institution~~ at the time of admission must be itemized in writing with an accompanying description, regardless of where the item is stored.

(2) Staff shall encourage and assist patients and residents to mark all personal property in ~~such~~ a way ~~which that~~ identifies it as an individual patient's or resident's possession.

(3) Any medications brought by the patient or resident at the time of admission should be sent home with a legal guardian or family member if possible. ~~If this is not possible, the medication must be marked with the patient's or resident's name and case number and sent to the OSH pharmacy who will dispose of them. If this is not possible, the medication must be marked with the patient's or resident's name and case number and sent to the OSH pharmacy of the state institution until the patient or resident is discharged.~~

~~(4) "Patients and residents may not bring, or have brought or sent in, nutritional supplements (e.g., vitamins, minerals, etc.). The attending practitioner, in consultation with pharmacy, will perform a careful review, based upon scientific evidence, to determine if the nutritional supplements are appropriate for the patient or resident. If such a determination occurs, the attending practitioner will order the specific nutritional supplement and the pharmacy will provide it in a similar system as the patient's or resident's other medication. Patients and residents may bring, or have brought or sent in, nutritional supplements (e.g., vitamins and minerals), and may use them provided that the patient's or resident's treating physician inspects, tests, or otherwise checks the substance claimed to be a nutritional supplement and determines that:~~

~~(a) The substance is a nutritional supplement;~~

~~(b) The substance is safe for human consumption or use; and~~

~~(c) Use or consumption of the nutritional supplement will not interfere with the testing, diagnosis, treatment, or training of the patient or resident; and~~

~~(d) The nutritional supplements are kept by the ward or cottage staff in a secure place and dispensed upon request.~~

(5) Any items sent through the mail or given by a visitor to a patient or resident become the personal property of that patient or resident and shall be handled in accordance with the procedures set forth in these rules.

(6) Prohibited items shall be handled as follows:

(a) The rules regarding the possession of prohibited items shall be discussed with the patient or resident and if the patient or resident is an unemancipated minor or legally incapacitated, the patient's or resident's parent or legal guardian, and such items shall be disposed of as follows:

(A) Given to the patient's or resident's parent, guardian, spouse, friend, attorney, or other person designated by the patient or resident;

(B) In the case of gifts, returned to the sender or giver;

(C) Kept in a secure location on the unit, suite, or cottageward or cottage or central location of ~~the institution-OSH~~ for delivery to the patient or resident upon release or discharge from OSH~~the institution~~;  
or

(D) Destroyed in the presence of at least two OSH employees ~~of the state institution~~.

(b) If agreement cannot be reached over the disposition of such items, the patient or resident may appeal the proposed disposition of prohibited items pursuant to OSH's the Division's grievance procedures in OAR chapter 309, division -118-0000 through 309-118-0050. OSH ~~The state institution~~ must retain the prohibited item in a secure location until a decision is made;

(c) The possession of items prohibited by law shall be turned over to the appropriate law enforcement authorities.

(7) Searches shall adhere to the following restrictions:

(a) Except for visual inspection of nose, mouth or ears without digital intrusion, all internal examinations must be conducted by either an attending practitioner-physician or a nurse and only upon authorization of the superintendent or designee;

(b) Except for attending practitioner-physicians and nurses, only ~~same-sex~~ personnel of the same sex as the patient or resident, defined according to the patient's or resident's gender identity, shall carry out searches of a patient's or /resident's person, except in emergencies;

(c) Upon completion of searches of a patient's or /resident's living area and personal property, staff shall return the area to a neat and orderly condition and ensure that authorized property is in no way damaged or dispossessed.

(8) ~~OSH State institutions~~ shall develop written procedures for handling missing personal property. These procedures may include the involvement of law enforcement authorities.

Statutory/Other Authority: ORS 179.040 & 413.042

Statutes/Other Implemented: ORS 179.321 & 426.385

History:

MHD 7-1986, f. & ef. 9-4-86

MHD 30-1982, f. 12-28-82, ef. 1-28-83

**309-108-0020 Notice ~~to Patients, Residents, and Employees~~**

(1) Upon admission, ~~state institutions~~ OSH shall inform patients and residents, orally and in writing, of the rights, policies, and procedures set forth in these rules. In addition, a clear and simple statement of the title and number of these rules, their general purpose, and instructions on how to obtain a copy of the rules and how to seek advice about their content shall be prominently displayed in areas frequented by OSH patients and residents ~~in all state institutions~~.

(2) All OSH employees ~~of state institutions~~ shall be notified in writing at the commencement of their employment, or, for present employees, within a reasonable time of the effective date of these rules, of the rights, policies, and procedures set forth in these rules.

Statutory/Other Authority: ORS 179.040 & 413.042

Statutes/Other Implemented: ORS 179.321 & 426.385

History:

MHD 30-1982, f. 12-28-82, ef. 1-28-83