

## **Oregon Health Authority**

### **Health Systems Division: Mental Health Services - Chapter 309**

#### **Division 91**

#### **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 state hospital 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 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**

~~(1) "AMH" means the Addictions and Mental Health Division of the Oregon Health Authority.~~

~~(2) "Authority" means the Oregon Health Authority.~~

~~(3) "Chief Medical Officer" (CMO) means the physician designated by the superintendent of each state institution who is responsible for the administration of medical treatment, or his or her designee.~~

~~(3) "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.~~

~~(4) "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.~~

~~(5) "Clinical Reviewer" means the Division employee designated to the role of determining eligibility for state hospital admissions.~~

~~(6) "Community Mental Health Program": 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 health care for each of the organization's members.~~

~~(8) "Division" means the Addictions and Mental Health 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.~~

~~(10) "DOC" means the Oregon Department of Corrections~~

~~(11) "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.~~

~~(12) "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); or~~

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

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

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

(14511) “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.

(1652) “Primary Diagnosis” means the diagnosis which identified the condition considered the most severe for which the individual receives treatment.

(1763) “Psychiatric Security Review Board” (PSRB) means board appointed by the Governor and authorized in ORS 161.385.

(187) “Ready ~~to~~ Transition” means a patient no longer meets admission criteria for hospitalization. Other terminology used can be “ready to transition” (RTT)

(1974) “Responsible Party” means the LMHA, community mental health program, the Medicaid ~~managed~~ Coordinated Care Organization, CHOICE Model contractor, and when applicable the individual’s legal guardian or healthcare representative, -and other parties identified by AMH/the Oregon Health Authority.

All are defined as “responsible parties”? This will serve to fragment services and potentially allow for lack of responsibility from each entity. Additionally, CCOs are “responsible parties” but have no oversight or coordination responsibilities when a client is in OSH?

(20185) “Serious and Persistent Mental Illness” (SPMI) means ~~an individual’s symptoms meet the criteria in OAR 309-091-0010.~~ the current DSM diagnostic criteria for at least one of the following conditions, as a primary diagnosis for an adult age 18 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.

(21196) “State Hospital” means any campus of the Oregon State Hospital (OSH) system, ~~and the Blue Mountain Recovery Center (BMRC).~~

(229) “OYA” means the Oregon Youth Authority

**Statutory/Other Authority:** ORS 413.042

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

**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

### **309-091-0010**

#### **Civily Committed, ~~and~~ Guardian, ~~and~~ Healthcare Representative Authorized Admission Criteria**

Each non-forensic individual admitted to a state hospital 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 healthcare representative~~, must have signed consent for admission;
- (3) There must be recent documentation by a ~~qualified professional Psychiatrist or Psychiatric Nurse Practitioner~~, that the individual is experiencing ~~an Axis I diagnosis of a mental disorder~~ **Serious and Persistent Mental Illness** with severe psychotic symptoms, ~~such as schizophrenia, delusional disorder, affective disorder, mood disorder or other disorders which manifest psychotic symptoms as defined in the most recent version of the DSM;~~ and

Only clients exhibiting psychotic symptoms will be admitted? Not consistent with SPMI diagnosis definition – no allowance for mood disorder symptoms.

- (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:**

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 Care**

- (1) State hospital level of care is determined appropriate when the individual's condition or symptoms have not improved in an acute care setting despite having received comprehensive psychiatric and medical assessment, ~~and~~ treatment ~~and/or community services with medications for at least 14 days~~, typical for a psychiatric illness or psychiatric emergency.

14 days including time for pre-commitment investigation or 14 days after hearing?

- (2) Prior to referral for admission to 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) Treatment in an acute setting within the parameters of the most recent version of the American Psychiatric Association Practice Guidelines for the Treatment of Psychiatric Disorders.~~
- ~~(c) In addition there~~ There must be evidence of additional treatment and services having been attempted, including:

(A) Use of evidence-based or promising psychosocial interventions which were delivered in relevant culturally-competent, strength-based, person-centered and trauma-informed manners and which adequately treated the assessed and/or expressed needs of the individual. When requested by the individual, Ttreatments should include members of the individual's family, support network and ~~/or peers~~ Peer supported-Delivered Services; and

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

(CB) Documentation of ongoing review and discussion, by hospital staff and 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 admission and establish treatment and recovery in a non-hospital setting.~~

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

~~(D)(a) Documentation of an , prior to admission to OSH~~

~~(E) (3) Documentation to determine need for OSH admission shall consist of the following specific forms, and types of documentation:~~

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

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

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

~~(d) Civil commitment documents to include:~~

~~(A) Pre-commitment investigation(s); and why is the PCI report relevant to the OSH referral if client is subsequently committed?~~

~~(B) Guardian or healthcare representative forms or orders; and~~

~~(C) History and physical; and,~~

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

~~(E) Medication Administration Record, labs and other diagnostic testing; and~~

~~(F) Progress notes; and~~

~~(G) Involuntary Administration of Significant Procedures (if applicable).~~

~~(H) If the referral is denied, the clinical reviewer will include in the letter of denial, the rationale for denial, and when appropriate, recommendations for re-application or the most appropriate level of services.~~

~~(I) The individual, the provider of services in acute care, or responsible party, can appeal the denial, by submitting a written request, to the OHA director, or designee.~~

~~(J) The director of OHA, or designee, will provide a written response to the appeal request.~~

**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

**309-091-0020**

**Neuropsychiatric and Geropsychiatric Admissions**

~~Admissions due primarily to symptoms resulting from a traumatic or acquired brain injury, dementia or other cognitive disorders, or an organic brain syndrome due to a medical condition may occur on a case-by-case basis when, as determined by the designated clinical reviewer, the individual's condition or symptoms would likely improve if treated in a state hospital, and at least one of the following:~~

~~(1) Denial of admission will result in a serious health or safety issue for the individual; or~~

~~(2) Denial of admission will cause a specifically described community safety issue; or~~

~~(3) Denial of admission will result in the significant worsening of the individual's condition.~~

**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

**309-091-0025**

**Exclusion Criteria and Exceptions**

(1) State hospitals are intended to provide recovery-oriented intervention for individuals experiencing symptoms related to SPMI, a severe, persistent and disabling mental illness.

- (2) Admissions must not be based upon a primary diagnosis of the following related conditions:
- (a) An acute or existing medical or surgical condition which requires primary placement in a medical setting and which cannot be safely or adequately treated within a state hospital facility;
  - (b) Delirium;
  - (c) ~~Pervasive Developmental Disorder~~; Neurodevelopmental disorders;
  - (d) ~~Intellectual Developmental Disorder~~; Neurocognitive disorders;
  - (e) Substance Use or Substance Abuse Disorders or
  - (f) Personality Disorder, except Borderline and Schizotypal Personality Disorders, with severe psychotic symptoms.

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

(4) 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 416-425-020.

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

(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.

(5) 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 426.315, 426.365 or 426.370, may only be admitted according to the criteria and process outlined in this rule.

a. On rare occasions, individuals who are housed at OSH, at the time of their end of jurisdiction, and when the safety and security of the individual is of primary concern, they may continue to stay at OSH, when civilly committed, without first being admitted to acute care.

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

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

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

**Statutory/Other Authority:** ORS 413.042

**Statutes/Other Implemented:** ORS 179.321, 426.010, 426.020 & 426.072, 426.220 and 426.225

**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

**309-091-0030**

**Discharge Planning**

(1) The responsible parties shall participate in discharge planning throughout a patient's hospitalization.

(2) The state hospital will notify the responsible parties of each admission, ~~unit or~~ campus transfer, and ~~each hospital treatment team~~ determination related to assessing discharge readiness.

(3) The state hospital will make clinical recommendations for services needed to support the continuity of care necessary 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:**

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 Healthcare representative**

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

(2) The state hospital retains the authority to solely determine when someone no longer needs state hospital level of care based on standardized criteria adopted by the hospital. Whenever possible, the decision should be made in collaboration with the responsible party ~~and legal guardian, when applicable~~.

**Define standardized criteria**

(3) An individual determined ready for discharge may later be determined not ready for discharge and removed from the discharge ready list.

(4) Individuals determined ready to discharge ~~with an active discharge and community placement plan~~, who no longer meet the state hospital criteria as defined in these rules, shall not remain in an Oregon state hospital.

(5) Prior to an individual no longer needing state hospital level of care, the hospital will collaborate with the responsible party ~~and with the patient's legal guardian if assigned by the courts~~, to recommend appropriate services and supports for the patient.

~~(6) When an individual no longer needs state hospital level of care, and an appropriate community transition plan and additional necessary supports are in place, the patient will be discharged.~~

**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

**309-091-0040****Forensic Admission Criteria and Procedures**

Forensic admissions will occur as prescribed 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) Individuals 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. ~~and in accordance with the state hospital policies and procedures.~~

3 Individuals whose jurisdiction under the PSRB has ended as identified by the state hospital Legal Department shall be allowed to discharge 12:01 a.m. through 11:59 p.m. 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:**

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 the state hospital moves the individual from the state hospital's psychiatric care to either a community setting or other institutional setting, including but not limited to discharge to a jail.

(2) Individuals committed to the state hospital pursuant to ORS 161.370 shall be discharged from the state hospital upon any of the following:

(a) The court orders that the individual be discharged from 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 ORS 161.365

(3) The state hospital shall send notice of the evaluation finding to the court pursuant to ORS 161.370 subsection (5)(a), (5)(b)(A), (5)(b)(B), or subsection (8); and

~~(B) Transports the individual to a jail.~~

(4) Individuals who are committed under ORS 161.370 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, 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, 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.

(5) For purposes of calculating the maximum period of commitment described in subsection (c):

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

(i) 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

(ii) Unless the defendant is charged with aggravated murder or a crime listed in ORS 137.700(2), for 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.

**Statutory/Other Authority:** ORS 413.042 & 161.370

**Statutes/Other Implemented:** ORS 179.321, 426.010, 426.020, 161.370, 179.360 & 2011 SB 432

**History:**

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

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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