

Oregon Health Authority

Health Systems Division: Behavioral Health Services - Chapter 309

Division 108

HANDLING OF PERSONAL PROPERTY OF PATIENTS ~~AND RESIDENTS~~ IN OREGON STATE INSTITUTIONS HOSPITAL

~~309-108-0000~~

309-108-0000

Purpose and Statutory Authority

~~(1) Purpose.~~ These rules prescribe the standards and procedures for the handling of personal property of Oregon State Hospital 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, 179.360 & 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

~~As used in these rules:~~

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

~~(2)~~ “Division” means 309-108-0005

Definitions

(1) “Contraband” means any controlled substance, drugs not prescribed to the patient, drugs not prescribed or authorized by OSH, drug paraphernalia, weapons, unauthorized currency or prohibited items.

(2) “Controlled Substance” means a drug or its immediate precursor classified in Schedules I through V under the Addictions and Mental Health federal Controlled Substances Act, 21 USC 811 to 812, as modified under ORS 475.005 and ORS 475.035.

(3) “Cultural Food/Items” means an item that relates to a patient’s cultural or ethnic identity.

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

~~(3)~~(5) “Drug” means:

(a) Substances recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States or official National Formulary, or any supplement to any of them;

(b) Substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans or animals;

(c) Substances (other than food) intended to affect the structure or any function of the body of humans or animals, including but not limited to vitamins, supplements, dietary powders, synthetic cathinones, synthetic cannabinoids; or

(d) Substances intended for use as a component of any article specified in paragraph (a), (b) or (c) of this subsection; however, the term does not include devices or their components, parts or accessories.

(6) “Drug Paraphernalia” means all equipment, products and materials of any kind that are marketed for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of ORS 475.752 to 475.980.

(7) “Excess Personal Property” means property which cannot be stored in the designated storage in the patient’s room or personal storage space on the unit.

(8) “Good Faith Belief” means an honest or sincere belief in something.

(9) “Harassment” means a patient who is communicating or attempting to communicate with an individual or entity that they are prohibited from contacting by a court order, treatment care plan, or other legal requirement.

(10) “Limited Access Item” means an item that could pose a safety or security risk in the possession of a patient but is permitted for a set duration of time with the prior authorization of OSH staff and, if

applicable, with the direct supervision of OSH staff. A limited access item becomes a prohibited item if the patient possesses or uses the item outside of the scope of the authorization or without OSH staff supervision if required.

(11) "Oregon State Hospital" or "OSH" or "hospital" means any campus of the Oregon State Hospital system.

(12) "OSH Market" means an on-site retail establishment where patients may purchase unrestricted items or authorized limited access items.

(13) "OSH Staff" means OSH employees, contractors, interns, and volunteers who have direct or indirect contact with patients.

(14) "Package" means any item sent by or received by a patient that does not meet the definition of mail, journalist mail, or legal mail.

(a) "Authorized Package" means a package received by OSH for a patient that has been prior authorized under these rules.

(b) "Unauthorized Package" any package that is not an authorized package.

(15) "Patient" means ~~a person~~an individual who is receiving care and ~~treatment in a state institution for the mentally ill~~/or treatment at OSH, whether the program where the individual is receiving care and/or treatment is licensed as hospital level of care or other licensed level of care.

~~(16)~~ "Patient Clothing" means an item worn to cover the patient's body.

(17) "Patient Property Room" means a designated area where patients may store personal property in a designated bin that cannot be stored in their room.

(18) "Personal Bedding" means two pillows, one blanket or comforter, and one sheet set.

(19) "Personal Property" means unrestricted items that belong to the patient that can be kept in the designated storage of the patient's room or patient property room.

(20) "Prohibited Item" means:

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

~~(b)~~ (a) Alcohol;

(b) Possession of drugs in the patient's room without authorization by OSH;

(c) Any item that reasonably ~~can~~ could be used ~~as a weapon or instrument of~~ to escape; ~~or leave the hospital without authorization;~~

~~(d) Food stored in the patient room or in the patient's storage in the patient property room;~~

(e) Any item ~~in~~ the possession of ~~which is a patient who is prohibited from possessing or using that item in their treatment care plan because it is considered~~ detrimental to ~~the treatment and training or health and safety of the patients or residents in a particular ward or cottage and which is prohibited in writing and posted on the affected ward or cottage; and~~ their treatment;

~~(f) Excess personal property;~~

(g) Any ~~limited access~~ item ~~in~~ the possession of ~~which is detrimental to the treatment and training of an individual a patient that exceeds the scope of the authorization or resident and which is recorded in the treatment and training orders section of the patient's or resident's chart~~ is not being supervised by ~~the treating physician~~ OSH staff as required; ~~or~~

(h) Any item that could pose a safety ~~or qualified mental retardation professional~~ security risk for the hospital.

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

~~(6)(21) "Reading Materials" means a written or printed work consisting of pages glued or sewn together along one side and bound in covers, such as books or magazines.~~

(22) "Reasonable Cause" means ~~that the person~~ an OSH staff member has knowledge or notice of facts ~~and/or~~ circumstances ~~which~~ and the rational inferences drawn therefrom that would lead a ~~person of ordinary care~~ reasonable and ~~prudence~~ experienced OSH staff member to ~~have come to~~ a strong suspicion ~~conclusion~~.

~~(7)(23) "Religious Item" means an item that is associated with the patient's particular system of faith and worship.~~

(24) "Safety" means protecting the patient and others from potential harm, or preventing the patient from escaping or leaving without authorization, damaging state property, damaging the patient's or another patient's personal property, or committing or attempting to commit a crime.

(25) "Search" means a close inspection, including physical contact of a patient/~~resident's person, and, of a patient/resident's person's~~ room or living area ~~and, or of the patient's~~ personal property ~~whenever there is a reasonable cause that said patient/resident.~~ Searches may ~~be in possession of a prohibited item.~~ require the removal and separate inspection of shoes, jackets, purses, bags and other accessories.

(8) "Resident" means a person who is receiving care, treatment, and training in a 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)(26) "Security inspection" means a visual inspection or a non-invasive inspection using a device (e.g., metal detector, x-ray), without the element of a personal contact search.

(27) "Security Reason" means protecting the patient from serious and immediate harm and protecting others from threats or harassment.

(28) "Superintendent" means the executive head of the ~~state institution as listed in section (9) of this rule~~ Oregon State Hospital or the Superintendent's designee.

(29) "Threat" means the patient expressing an intent to harm, cause alarm to, or intimidate another individual.

(30) "Treatment Care Plan" means an individualized and comprehensive written plan of therapeutic interventions designed, in collaboration between the patient and their treatment team, to facilitate rehabilitation of psychiatric symptoms.

(31) "Unauthorized Currency" means paper money and coins in the possession of a patient in an amount or in a location not authorized by OSH.

(32) "Unrestricted Items" means any item that is not contraband and has been authorized by OSH for the patient's use or possession.

(33) "Weapon" means any item that can be used or modified to be used to harm the patient or others, including but not limited to guns, knives, improvised pointed or bladed instrument, and pepper spray.

Statutory/Other Authority: ORS 179.040, 179.360 & 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~~

309-108-0010

Policy

(1) ~~All patients and residents~~Patients shall have the right to ~~retain~~possess and use on each ~~ward or cottage~~unit reasonable amounts of personal property, ~~other than prohibited items. State institutions and unrestricted items. Patients shall not have the right to possess or use contraband or prohibited items. In addition to these rules, OSH maintains a list of items that it has determined pose a safety or security risk to OSH and qualify as contraband, a prohibited item or limited access item under these rules. OSH's Property/Item Access List, Version 2, dated July 1, 2022, available at OSH's website for Policies and Procedures. Patients may also request a paper copy which shall also be posted in areas frequented by patients.~~

(2) OSH shall provide ~~on~~ each ~~ward or cottage~~ private, adequate, and patient with accessible storage for reasonable amounts of personal property:

(a) ~~Patients and residents needing in the patient's room and in the patient property room. Patients who need~~ 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~~care plan.

(b) ~~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) ~~State institutions shall provide a secure location for storage of patients' and residents' valuables. Valuables include, including 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 valuables. OSH staff shall work with patients to identify what excess property, which a patient or resident wants, will be stored or will be given to the patient's guardian, legal representative, family member, or other individual designated by the patient. Valuables that are stored at the hospital shall be documented by OSH staff and retained in a secure location.~~

~~(4)(3) Excess property and valuables shall be returned to the patient or resident upon release or discharge, or upon the death of the patient or resident, or upon request of the patient or resident if there is space available on the ward or cottage to accommodate it the patient's guardian or legal representative, next of kin, or as otherwise required by law.~~

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

~~(6) State institutions(4) OSH may restrict the amount of cash currency allowed to be retained by patients or residents on the living their unit.~~

~~(7) A patient/resident may be searched by Division personnel whenever said personnel have reasonable cause to believe that a patient/resident or off of their unit. Unauthorized currency may be stored as excess property, given to an individual listed in possession section (2) of a prohibited item.~~

~~(8) No employee this rule, or any person acting through, or on behalf of deposited in the 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 trust account.~~

~~(9) Patients and residents shall have the right to appeal(5) OSH may conduct a security inspection or search of a patient, patient's room or living area, or personal or excess property for contraband.~~

~~(6) Contraband, including prohibited items, shall be handled as provided in OAR 309-108-0015.~~

~~(7) The patient may contest the application of any portion of these rules as provided under OSH's grievance and review process 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 constitutes cause for disciplinary action.~~

Statutory/Other Authority:-_ORS 179.040, 179.360 & 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

309-108-0015 Procedures

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

(2) ~~Staff~~OSH staff shall encourage and assist patients ~~and residents~~ to mark all personal property in such a way which 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 given to the patient's~~ guardian, legal representative, 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 pharmacy of the state institution until the patient or resident is discharged.~~

~~(4) Patients and residents may bring, or have brought or sent~~shall be placed 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 the medical waste barrel 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) later destruction. 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 controlled substances shall be handled as follows: destroyed and logged in the pharmacy record.~~

~~(4) If OSH identifies a) The rules regarding prohibited item in the possession of the patient, in the patient's room or living area, or in their personal/excess property, OSH shall:~~

~~(a) Store the item as excess personal property;~~

~~(b) Provide the item to an individual listed in OAR 309-108-0010(2); or~~

~~(c) Dispose of any prohibited items that may pose a safety or security risk. Disposal shall be discussed with the patient or resident documented 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: witnessed by two OSH staff members.~~

~~(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 ward or cottage or central location of the institution for delivery to the patient or resident upon release or discharge from the institution; or~~

~~(D) Destroyed in the presence of at least two 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 the Division's grievance procedures in OAR 309-118-0000 through 309-118-0050. The state institution must retain the prohibited item in a secure location until a decision is made;~~

~~(e) The (5) If OSH identifies any controlled substances, drug paraphernalia, or weapons in the possession of items prohibited by law shall be turned over to the appropriate the patient, in the patient's room or living area, or in their personal/excess property, then OSH shall:~~

~~(a) Create a chain of custody and hold the item in a secure area;~~

~~(b) Contact law enforcement authorities and turn over the contraband, if law enforcement is willing to accept it, and document the action taken;~~

~~(c) If law enforcement declines to investigate further or accept the contraband, then dispose of the contraband in the presence of at least two OSH staff, and document the action taken.~~

~~(6) If OSH identifies any drugs not prescribed to the patient, drugs not prescribed or authorized by OSH, or unauthorized currency in the possession of the patient, in the patient's room or living area, or in their personal/excess property, OSH shall:~~

~~(a) Follow the process in section (4) of this rule if OSH does not have a good cause belief that the drugs not prescribed to the patient, drugs not prescribed or authorized by OSH, or the unauthorized currency are evidence of a crime or attempted crime; or~~

~~(b) Follow the process in section (5) of this rule if OSH has a good cause belief that the drugs not prescribed to the patient, drugs not prescribed or authorized by OSH, or the unauthorized currency are evidence of a crime or attempted crime.~~

(7) Searches shall adhere to the following restrictions:

~~(a) Except for visual inspection of nose, mouth, ears without~~ Searches of a patient that require physical contact shall be conducted by a physician, a nurse, or ~~ears without~~ a same-sex OSH staff member (who is not a physician or a nurse), except in cases of emergencies.

~~(b) Searches of the patient that require digital intrusion, all or internal examinations must~~ examination shall be conducted by ~~either~~ a physician or a nurse and only upon authorization of the ~~superintendent~~ Superintendent or designee, ~~except in emergencies where harm or injury may occur to the patient by delaying the search;~~

~~(b) Except for physicians and nurses, only same sex personnel shall carry out searches of a patient/resident's person except in emergencies;~~

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

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

(9) The patient may contest the application of these rules under OSH's grievance and review process in OAR chapter 309, division 118.

Statutory/Other Authority: ~~_~~ORS 179.040, 179.360 & 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~~

309-108-0020

Notice to Patients, ~~Residents,~~ and ~~Employees~~ OSH Staff

(1) Upon admission, ~~state institutions shall inform to OSH,~~ patients ~~and residents, orally~~ shall be informed of their rights under these rules, both verbally 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~~ and will be provided instructions on how to obtain a copy of ~~the~~ these rules ~~and how to seek advice.~~ Information about ~~their content~~ these rules shall also be prominently displayed in areas frequented by patients ~~and residents in all state institutions.~~

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

(3) Violation of these rules and any related OSH policies or procedures by OSH staff may constitute cause for disciplinary action.

Statutory/Other Authority: - ORS 179.040, 179.360 & 413.042

Statutes/Other Implemented: - ORS 179.321 & 426.385

History:

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