



ADMINISTRATIVE RULES OF MONTANA



37.106.1854 SPECIALTY MENTAL HEALTH FACILITY: PATIENT RIGHTS

- (1) A specialty mental health facility shall have written policies and procedures to assure the individual patient the right to dignity, privacy, and safety, and shall support and protect the basic human, civil, and constitutional rights of the individual patient.
- (2) A written policy and procedure approved by the governing body shall provide a description of the patient's rights and the means by which these rights are protected and exercised.
- (3) At the point of admission, the facility shall provide the patient and family, designated relative, guardian, or custodian, with a clearly written and readable statement of patients' rights and responsibilities. The statement shall be read to the patient and family, guardian, or custodian if any cannot read, and shall cover, at a minimum:
 - (a) each patient's access to treatment, regardless of race, religion or ethnicity;
 - (b) each patient's right to recognition and respect of his or her personal dignity in the provision of all treatment and care;
 - (c) each patient's right to be provided treatment and care in the least restrictive environment possible;
 - (d) each patient's right to an individualized treatment plan;
 - (e) each patient's and family's participation in planning for treatment;
 - (f) the nature of care, procedures, and treatment that he or she will receive;
 - (g) the risks, side effects, and benefits of all medications and treatment procedures used;
 - (h) the right, to the extent permitted by law, to refuse the specific medications or treatment procedures and the responsibility of the facility when the patient refuses treatment, or, in accordance with legal and professional standards, to terminate the relationship with the patient upon reasonable notice; and
 - (i) the patient and family members' right to access to a patient advocate.
- (4) The rights of patients must be written in language which is understandable to the patient, his or her family, custodian, or guardian, and must be posted in appropriate areas of the facility.
- (5) The policy and procedure concerning patient rights shall assure and protect the patient's personal privacy within the constraints of his or her treatment plan. These rights to privacy shall at least include:
 - (a) visitation by the resident's family, relatives, guardian, or custodian in a suitable private area of the facility;

- (b) sending and receiving mail without hindrance or censorship; and
 - (c) telephone communications with the patient's family, relatives, guardian, or custodian at a reasonable frequency.
- (6) If any rights to privacy must be limited, the patient and his or her family, guardian, or custodian shall receive a full explanation. Limitations must be documented in the patient's record and their therapeutic effectiveness must be evaluated and documented by professional staff every seven days.
- (7) The right to initiate a complaint or grievance procedure and the means for requesting a hearing or review of a complaint must be specified in a written policy approved by the governing body and made available to patients, family, guardians, and custodians responsible for the patient. The procedure shall indicate:
- (a) to whom the grievance is to be addressed; and
 - (b) steps to be followed for filing a complaint, grievance, or appeal.
- (8) The patient and his or her family, guardian, or custodian must be informed of the current and future use and disposition of products of special observation and audio visual techniques such as one-way vision mirrors, tape recorders, television, movies, or photographs.
- (9) The policy and procedure regarding patient's rights shall ensure the patient's right to confidentiality of all information recorded in his record maintained by the facility. The facility shall ensure the initial and continuing training of all staff in the principles of confidentiality and privacy.
- (10) The patient may be allowed to work for the facility only under the following conditions:
- (a) the work is part of the individual treatment plan;
 - (b) the work is performed voluntarily;
 - (c) the patient receives wages commensurate with the economic value of the work;
 - (d) the work project complies with applicable law and regulations; and
 - (e) the performance of tasks related to the responsibilities of family-like living, such as laundry and housekeeping, are not considered work for the facility and need not be compensated or voluntary.
- (11) Measures utilized by the facility to discipline patients must be:
- (a) established by written policy and procedure developed in consultation with professional and direct care staff and approved by the governing body;
 - (b) fully explained to each patient and the patient's family, guardian, or custodian;
 - (c) fair, consistent, and administered based on the individual's needs and treatment plan.
- (12) The facility shall prohibit all cruel and unusual disciplinary measures, including but not limited to the following:
- (a) corporal punishment;
 - (b) forced physical exercise;
 - (c) forced fixed body positions;

- (d) group punishment for individual actions:
 - (e) verbal abuse, ridicule, or humiliation;
 - (f) denial of three balanced nutritional meals per day;
 - (g) denial of clothing, shelter, bedding or personal hygiene needs;
 - (h) denial of access to educational services;
 - (i) denial of visitation, mail, or phone privileges for punishment;
 - (j) exclusion of the patient from entry to his or her assigned living quarters; and
 - (k) restraint or seclusion as a punishment or employed for the convenience of the staff.
- (13) Written policy shall prohibit patients from administering disciplinary measures upon one another and shall prohibit persons other than professional or direct care staff from administering disciplinary measures to patients.
- (14) Written rules of patient conduct must be:
- (a) developed in consultation with the professional and direct care staff and approved by the governing body;
 - (b) developed with the participation of patients to a reasonable and appropriate extent; and
 - (c) based on generally acceptable normal and natural behavior for the patient population served.
- (15) The application of disciplinary measures should correlate with the violation of established rules.

Authorizing statute(s): Sec. 50-5-103, MCA

Implementing statute(s): Sec. 50-5-103, MCA

History: NEW, 1991 MAR p. 2454, Eff. 12/13/91; TRANS, from DHES, 2002 MAR p. 185.