

PURPOSE

To assure that a patient at a Michigan Department of Health and Human Services (MDHHS) hospital is entitled to receive, possess, and use all personal property and that his or her person, property or living area is not subject to search except under the framework and conditions as established by this policy.

DEFINITIONS**Contraband**

The possession by a patient of any item prohibited by this policy or the patient's individual plan of service.

Hospital

An inpatient program operated by MDHHS for the treatment of individuals with serious mental or serious emotional disturbance.

Individualized Plan of Service (IPOS)

The fundamental document in the patient's record, developed in partnership with the patient using a person-centered planning process that establishes meaningful goals and measurable objectives. The plan must identify services, supports and treatment as desired or required by the patient.

Reasonable Cause

A belief based on facts or circumstances that a patient has contraband in their possession or has concealed contraband within areas containing their personal property.

Search

A physical inspection for contraband conducted by authorized staff. There are five types of searches:

Area

Any search located within areas containing personal property of a patient (for example, a wardrobe, bed, or drawers).

Body Cavity Search

Any search of a patient's body cavities.

Package

Any search of packages intended for delivery to patients.

Pat Down

Any search of a patient that does not require removal of clothing other than a coat or jacket. This search consists of requesting the patient to reveal any item in their possession followed by physically patting outside areas of clothing.

Strip Search

Any search of a patient and/or a patient's clothing which requires the patient to remove or alter the position of clothing, which reveals their body.

POLICY

Patients must be entitled to receive, possess, and use all personal property in their possession, and that their property or living area must not be subject to search except under the framework and conditions established herein.

STANDARDS**Personal Property**

- A reasonable amount of storage space will be provided to each patient for their personal property.
- Patients must be permitted to inspect all their personal property at reasonable times.
- A hospital may exclude kinds of personal property. Any exclusions must be in writing and posted in each residential unit. Patients must be notified of such excluded items at the time of admission to the hospital. Excluded property must be limited to items identified in *Appendix A* as approved by the State Hospital Administration (SHA) and the Office of Recipient Rights, unless further limited in the patient's IPOS. The SHA deputy director reviews and approves, in consultation with the Office of Recipient Rights, any requested changes to *Appendix A*. The individual in charge of the patient's IPOS may limit a patient's right to receive, possess, and use personal property. Each limitation must be essential for one of the following purposes:

- To prevent theft, loss, or destruction of property, unless a waiver is signed by the patient or their legally empowered representative.
- To prevent the patient from physically harming themselves or others.
- The Behavior Treatment Plan Review Committee (BTPRC), at both the state hospital and central levels, must review any planned intervention with limitations related to personal property or search and seizure. Any limitation must be justified, time-limited, and documented in the patient's IPOS. Documentation must include attempts that have been made to avoid such limitations as well as what action will be taken as part of the behavior plan to ameliorate or eliminate the need for the limitation; see [APF 163](#).
- When the circumstances that justified the adoption of a limitation cease to exist the limitation must be removed.
- Upon request, a patient, or person designated by a patient, must receive and have an opportunity to review any limitation or the limitation's expiration date.
- A receipt must be given to a patient, or a person designated by a patient, for any of their personal property taken into possession by the hospital. Any personal property in possession by a hospital at the time of a patient's discharge from the hospital must be returned to the patient.
- Upon the death of a patient, the hospital must:
 - Make every effort to divest itself of a patient's personal effects and monies if the effects and monies consist of only clothing and up to \$100 cash. Divestiture must be to the spouse, child, or parent of the patient, if the spouse, child, or parent furnishes identification and an affidavit of such relationship and that an estate of the decedent is not pending.
 - Send a list of personal effects or monies being held by the hospital to the nearest relative by registered mail and to probate court and must call attention to statutes that provide for disposition.

- If there are questions as to rival claims to personal effects or monies, property may be held by a hospital until the claims are determined in a probate court.
- If the nearest relative cannot be contacted, send, by registered mail, to the person or entity that paid the funeral expenses, a list of the articles being held by the hospital and a statement which calls attention to statutes providing for disposition.
- If there are no claims to personal effects or monies of a patient who has died, consider property or monies unclaimed.
- If a patient is on unauthorized leave and if the patient's property and money is not claimed by the patient, or the patient's relatives, heirs, or personal or legal representative, the hospital must retain custody of the property and monies and must handle them in the same manner as other unclaimed property.
- If personal effects or monies of patients become unclaimed and have been held for two years, the property or money must be disposed of pursuant to applicable Michigan law.

Searches of Person, Property or Living Area

Staff must use the electronic medical record (EMR) to document a search.

- Routine searches may be conducted in common areas of a living unit.
- A patient's property, person, or living area must not be subject to search unless the search is authorized in the patient's IPOS or there is reasonable cause to believe the patient is in possession of contraband. Prior to conducting a personal or property search, a patient must be informed of the reason for the search. This notification must be documented in the patient's medical record. An IPOS which authorizes search and seizure requires the consent of the patient, guardian, or parent with legal custody of a minor unless the patient has been adjudicated pursuant to the Michigan Mental Health Code. Any search of the person, property or living area of a patient must be based upon reasonable cause or authorized in the patient's IPOS with the following exceptions:

- *A pat down search* may be conducted on each patient at the time of admission or upon return from authorized or unauthorized leave of absence, or prior to the implementation of seclusion or restraint.
- Packages brought by visitors intended for a patient may be searched prior to delivery to the patient. Search of a package brought by a visitor must be based upon voluntary consent by the visitor. A hospital may exclude packages for which the visitor denies consent for search.
- Searches of a patient's property and living area must be conducted by at least two hospital employees with the patient present. It must be documented in the patient's medical record if the patient declines to be present. At least two hospital employees must conduct searches of the patient, one of whom must be of the same gender as the patient.
- A strip search requires a written order by a physician and must include justification for the search. This search must be:
 - Conducted by at least two employees, one of whom must be of the same gender as the patient.
 - Conducted in a private setting.
- A body cavity search requires the written order of a physician and must include justification for the search. This search must be:
 - Conducted by a physician with an employee witness, one of whom must be of the same gender as the patient.
 - Conducted in a private setting.
- Documentation in the record of a patient who is subjected to a search must include:
 - The reason for initiating the search.
 - The type of search.
 - Who authorized the search.
 - Who conducted the search.
 - The results of the search, including a description of property seized and its disposition.

REFERENCES

- Michigan Mental Health Code, MCL 330.1752

- Michigan Mental Health Code, MCL 330.1728
- Michigan Mental Health Code, MCL 330.1469a
- Michigan Mental Health Code, MCL 330.1472a
- Michigan Mental Health Code, MCL 330.1473
- Michigan Mental Health Code, MCL 330.1515
- Michigan Mental Health Code, MCL 330.1518
- Michigan Mental Health Code, MCL 330.1519
- Michigan Mental Health Code, MCL 330.1032
- MDHHS Administrative Rule 330.7009
- MDHHS Administrative Rule 330.7199

CONTACT

For additional information concerning this policy, contact the Office of Recipient Rights.

EXHIBIT A

Excluded property, must be limited to the following items, as approved by the State Hospital Administration and the Office of Recipient Rights, unless further limited in the patient's Individualized Plan of Service (IPOS) developed through the Person-Centered Planning process:

- Weapon such as firearms and ammunition, explosives, knives or other instruments created to be used in combat or fighting. Any items that may be fashioned as a weapon, but that is not the intended use are not included in this list and can only be limited per the patient's IPOS.
- Sharps including, hypodermic needles, sewing needles, pointed scissors, razors, metal nail files, and pins.
- Medications, or illicit or recreational drugs unless the possession of which has been prescribed by the patient's attending physician.
- Alcoholic beverages.
- Energy drinks: defined as a beverage that is marketed as intending to increase the consumers physical or mental energy and performance.
- Tobacco products, including electronic nicotine delivery systems, paraphernalia, and related components Glass bottles or containers.
- Aerosol cans or other flammables.
- Matches, lighters, or other incendiary devices.
- Devices capable of audio or video recording. should not be allowed in residential and treatment areas of the hospital to protect patient privacy. Laptop computers and tablets (may be used during assigned time only).
- Items or devices that communicate messages considered disturbing to most people, such as with obscene or violent scenes or symbols or slogans that are evidence of hate of another race, faith, or group of people. The possession or use of any item which would violate a federal, state or local law.
- Ligature points include shower rails, coat hooks, pipes, and radiators, bedsteads, window and door frames, ceiling fittings, handles, hinges and closures. Moveable items which could be used to attach a cord, rope, or other material for the purpose of hanging or strangulation should be removed from patient care areas or monitored by staff. Access to a cord, rope, belt, shoelaces, or other material by the patient that could be used for the purpose of hanging or strangulation should be limited in the patient's IPOS based upon their current clinical condition.

Items that present a potential safety risk to patients will be stored by the staff and access will be provided upon request. The use of these items may only be limited in the IPOS or as a spontaneous intervention per APF 163. Any spontaneous limitation must be justified, time-limited and clearly documented in the clinical record.

- Arts and craft or office/school supplies purchased by or for the patient (supplies will be provided by the hospital for offered activities): scissors, spiral notebooks, staples and pencil sharpeners, pens or mechanical pencils, markers, knitting or crocheting needles.
- Grooming and hygiene supplies purchased by or for the patient (supplies and storage will be provided by the hospital for patient use): shaving razors, nail clippers, hair care products.