



OREGON STATE HOSPITAL
Office of the Superintendent

Kate Brown, Governor



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Memorandum

To: Partners of Oregon State Hospital (OSH)

From: Dolly Matteucci, OSH Superintendent/Chief Executive Officer

Subject: Clarifying Changes to Discharge Timing of “Able” or “Never Able” Patients

On May 22, 2020, the attached announcement was sent to our stakeholders. It explained that, after consultation with the Oregon Judicial Department, OSH changed the timing of its discharges of ORS 161.370 patients found “Able” or “Never Able”.

Specifically, OSH now discharges defendants who are currently at OSH for restoration treatment to the committing jurisdiction 2 business days after the evaluator’s report has been filed with the court, unless the hospital receives notice that the report’s conclusion will be contested. If the hospital receives notice from a party within 2 business days that the report’s conclusion will be contested, the hospital retains defendant until the contested hearing is held, or discharges the defendant within 30 days, whichever is sooner.

Since OSH initiated this change, OSH has received numerous contested notices. In many of the cases where a notice has been filed, a party has expressly indicated that they filed the notice not to contest the conclusion, but rather to keep the defendant at OSH.

The new discharge timing process was developed to allow parties an opportunity to contest OSH evaluations. Unfortunately, utilizing the process for other reasons has negatively impacted OSH’s ability to discharge existing patients and admit new patients.

With this in mind, beginning August 3, 2020, unless a party files a contested notice within two business days of the filing of the report ***and indicates in good faith that they intend to contest the conclusion of the OSH report***, OSH will discharge the patient to the committing jurisdiction.

This process does not impact a party's ability to contest a finding or ask for a hearing after the defendant has been discharged to the committing jurisdiction.

This change is consistent with the initial purpose OSH discussed with the Judicial Department – to address those rare cases where a party intends to contest OSH's report. It also helps OSH with its efforts to discharge and admit patients on a timely basis.

OSH has created a template notification that may be used to notify the hospital of the intent to contest the hospital's conclusion. That template, as well as other templates, may be found at <https://www.oregon.gov/oha/osh/legal/pages/index.aspx>

Notification of intent to contest OSH's conclusion should be sent to OSH.CourtOrders@dhsosha.state.or.us

If you have questions about this change, please contact the OSH Legal Affairs Director, Micky Logan, at 503-947-2937.