

## GUIDANCE SHEET:

# Cell Phones and Patient Rights under 27-65

## Background: HB 22-1256

House Bill 22-1256 revised the section of the Colorado Revised Statutes that defines the processes and procedures for individuals seeking treatment or receiving involuntary treatment under Section 65, Title 27 C.R.S. This section is often referred to as “27-65”. This bill specifically added that patients receiving involuntary services under this statute have the right to “keep and use” their cell phone. Statute language and reference can be found on the right side of this document.

## Expectations of Implementation

Statutory language allows for patients to “keep and use” their cell phone under the transportation hold and the emergency mental health hold, and within inpatient settings. This statute went into effect July 1, 2023.

Internal policies should address the following:

1. Denial or restriction to keep and/or use their cell phone must be made on a case-by-case basis. (11.16.6 C)
2. Denial or restriction reason must be documented in the patient record, and made available to the patient, patient’s attorney, and/or legal guardian upon request. (11.16.6 C)
3. Ongoing denial and/or restriction must be evaluated for **therapeutic necessity** at least every seven (7) days and documented in the patient record. (11.16.6 D)
4. Denial or restriction of this right may only be made by a member of the individual’s treatment team or a professional providing treatment and care (11.16.6 A).

## Technical Assistance and Enforcement

Licensing managers will provide technical assistance to agencies that request support with rule and statutory compliance.

Compliance with statutory requirements cannot be waived; patient rights are subject to immediate enforcement.



## Section 65, Title 27, Colorado Revised Statutes

- “Care and Treatment of Persons with Mental Health Disorders” patient’s right to their cell phone identified in the following procedures of the involuntary process(es):
  - 27-65-106(10)(a)(X): *a person detained for an emergency mental health hold has the right to keep and use their cell phone*
  - 27-65-107(4)(a)(IV): *a person detained under the involuntary transportation hold has the right to keep and use their cell phone*
  - 27-65-119(1)(l): *a person certified for short-term or long-term treatment has the right to wear their own clothes, use their personal possessions, including their cell phone, and keep and be allowed to spend a reasonable sum of their own money.*

Access to an individual’s right(s) may be denied or restricted in the following circumstances:

1. Access to item causes person to destabilize
2. Access to item creates a danger to the person’s self or others



**COLORADO**  
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Administration

# FREQUENTLY ASKED QUESTIONS

**When does denial of this patient right become a regulatory violation under delayed enforcement?**

Cell phones cannot be prohibited as an agency-wide policy. Cell phones cannot be considered “contraband” under agency policy. Cell phones may not be restricted based on involuntary status alone.

**Are patients allowed unfettered access to their cell phone?**

Agencies are allowed to implement safety measures around cell phone use. For example, an agency may manage access to charging cords and internet service or prohibit patients from taking videos or pictures of other patients.

**Can my agency create rules around the cell phone use?**

Yes; as long as these rules do not limit the rights of patients to “keep and use” their cell phone. Limits on an individual patient’s right to “keep and use” their cell phone requires that an agency follow the rules for individual rights restrictions. For example, an agency rule cannot require *all* patients to “check-out” their phone for use only during identified “tech-time” hours. This might be an appropriate intervention for a specific patient after an individualized clinical assessment. This restriction will need to be documented in the patient's record.

**Can my agency have patients sign a cell phone and/or technology agreement?**

Yes, however, refusal to sign the agreement should not be used as the sole reason for restricting the individual's right to their cell phone.

**Can a parent refuse to allow their minor child access to a cell phone while they are participating in inpatient treatment?**

Yes; a parent can determine which personal possessions are appropriate for their minor child to bring to inpatient treatment. The agency will need to assess for safety for any possessions brought to the facility to ensure alignment with internal policies and procedures.

**What do I do if a patient has violated our policy and is refusing to turn over their cell phone?**

Please refer to your individual agency’s policy and internal guidance for specific practice behaviors.

**What is the regulatory expectation of my agency and the policy creation requirements of 2 CCR 502-1 Behavioral Health Rules?**

Agencies are responsible for creating a policies to guide the internal practices that conforms to statute and rule. Licensing managers can provide technical assistance and further guidance in creation of these types of policies.

**Can we build “technology detox” into the treatment plan?**

Per 2 CCR 502-1, Behavioral Health Rules, individuals should be part of the service plan creation and the objectives are based on the goals identified through the comprehensive assessment. Any tasks or activities in the service plan must be therapeutic and not solely for the convenience of the facility. (2.13.1 A 3-5)

**My patient is on an emergency mental health hold for suicidal ideation. Can I restrict their right to their cell phone?**

An individual’s right to their cell phone cannot be restricted solely based on their involuntary status. Per Section 65 of Title 27 C.R.S., the patient’s right to keep and use their cell phone is specifically listed as part of the patient rights for the emergency mental health hold, transportation hold and certification processes. Any restriction of this right must be based on an assessment of the individual’s current circumstances and ability to maintain their possessions in a safe manner.

**The charging cord presents a ligature risk. Are they required to have the charging cord in their possession too?**

Any item that poses a ligature risk may be restricted per agency policy and procedures. However, the facility will need to find other ways for the patients to have access to charging their phone. For example, chargers and charging cords can be kept behind a locked door or at a nurses’ station, or the facility may opt into purchasing special charging boxes that can be stationed in the milieu.

*Any additional questions can be directed to your agency’s Q&S Licensing Manager or to the 27-65 team.*

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# PERSONAL ELECTRONIC DEVICE: RULES FOR USE (EXAMPLE ONLY)

1. Only the owner of the personal electronic device (PED) may use and access the device. The owner is responsible for the PED at all times. Facility is not responsible for lost or stolen PEDs when left in the care of the owner.
2. Privacy of all patients shall be respected. Photographing or video recording of others in the treatment setting is not allowed. You may take photos or videos of yourself. Violation of this may result in having privacy tape placed over your camera.
3. Removal of privacy tape from your PED may result in further access restrictions, up to and including full removal of the PED.
4. Ringtones should be placed on vibrate or silent to avoid disrupting the milieu environment.
5. Accessing inappropriate material or topics may result in a temporary restriction of your PED. This will be evaluated with you and your treatment team.
6. PEDs should not be used during therapeutic groups. Distractions shall be kept to a minimum. Should you need access to your PED during a therapeutic activity, please step out from the activity until you can participate without distraction.
7. Charging cords and/or charging stations are available in designated areas only.
8. PEDs may be inspected to ensure they are in good working order and do not pose a safety risk. Staff will not investigate the contents of your PED without your permission and assistance.
9. If your PED becomes a distraction to your treatment or causes you to decompensate, your PED use will be reviewed with your treatment team.
10. Any restrictions or limitations to your PED will be discussed between you and your treatment team prior to implementation of the restriction.

\_\_\_\_\_  
Patient Name/Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Staff

\_\_\_\_\_  
Date

## About the Colorado Behavioral Health Administration

The Colorado Behavioral Health Administration (BHA) is the state administration responsible for ensuring all people in Colorado have access to quality mental health and substance use disorder services, regardless of where they live, or ability to pay. As a regulatory body, BHA brings together community groups and governmental agencies to create a behavioral health system for all people in Colorado that is easy to access, and offers high-quality care that considers the whole person and their needs. Find us online at [bha.colorado.gov](http://bha.colorado.gov) or follow us on social media at @BHACConnect.

