

DISABILITY RIGHTS NEW JERSEY

ADVANCING JUSTICE. ADVOCATING INCLUSION.

THE LEGAL RIGHTS OF **VOLUNTARY** PATIENTS AT INPATIENT PSYCHIATRIC FACILITIES AND INSTITUTIONS

What is voluntary legal status at a psychiatric facility?

A voluntary patient at an inpatient psychiatric facility is one who is at the facility by their own choice. (NJSA § 30:4-27.20)). Unlike involuntary patients, voluntary patients are not required to stay at the facility through the civil commitment legal process.

Even though you are committed for psychiatric treatment, you retain all civil and legal rights, and nothing about your treatment can modify or vary any of your rights (N.J.S.A. § 30:4-27.11c and N.J.S.A § 30:4-24.2(d))

The rights retained by individuals receiving psychiatric treatment include, but are not limited to the right to:

- Register for and vote at elections;
- Not be presumed mentally incapacitated;
- Grant, forfeit, or deny a license, permit, privilege or benefit pursuant to a law;
- Be free from unnecessary or excessive medication;
- Not be subjected to experimental research, electroconvulsive therapy, or sterilization without express and informed written consent;
- Be free from physical restraint and isolation; and
- Be free from any form of punishment.

The above rights cannot be denied under any circumstances.

In addition, subject to some exceptions, voluntary patients at state psychiatric hospitals are also entitled to all the enumerated rights of the New Jersey Patients' Bill of Rights (N.J.S.A § 30:4-24.2(e)), including the right:

- (1) To privacy and dignity.
- (2) To the least restrictive conditions necessary to achieve the purposes of treatment.
- (3) To wear the patient's own clothes; to keep and use personal possessions including toilet articles; and to keep and be allowed to spend a reasonable sum of money for canteen expenses and small purchases.
- (4) To have access to individual storage space for private use.
- (5) To see visitors each day.
- (6) To have reasonable access to and use of telephones, both to make and receive confidential calls.

- (7) To have ready access to letter writing materials, including stamps, and to mail and receive unopened correspondence.
- (8) To regular physical exercise several times a week. It shall be the duty of the hospital to provide facilities and equipment for the exercise.
- (9) To be outdoors at regular and frequent intervals, in the absence of medical considerations.
- (10) To suitable opportunities for interaction with members of the opposite sex, with adequate supervision.
- (11) To practice the patient's religion of choice or abstain from religious practices. Provisions for worship shall be made available to each person on a nondiscriminatory basis.
- (12) To receive prompt and adequate medical treatment for any physical ailment.

These twelve rights may not be denied, unless the director of the patient's treatment program feels it is imperative to do so, and only after a written notice given to you and/or your guardian if you have one, including an explanation of the reason for the denial.

If you feel any of your legal rights are being violated, please contact our intake line at 1.800.922.7233 or 1-609-292-9742. You may also wish to file a complaint with the Patient Services Compliance Unit (PSCU), which accepts reports of suspected patient abuse or professional misconduct at the state psychiatric hospitals. You may call their toll-free number at 888-490-8413 and leave a message.

Legal Rights Related to Discharge

What happens if you request to be discharged?

A voluntary patient may request their discharge from the psychiatric facility at any time, either orally or in writing. The treatment team must document all requests for discharge in your clinical record.

Upon receiving the discharge request, the facility has two options:

- 1) The facility may discharge the patient as soon as possible. The facility should process the discharge within 48 hours of the discharge request.
- 2) If the facility believes that the individual requires involuntary commitment (NJSA § 30:4-27.1, et seq.), the facility may initiate legal proceedings and seek a temporary court order for involuntary commitment.

How long is the psychiatric facility allowed to detain you for after you submit a discharge request?

The facility cannot detain the patient beyond 48 hours or the end of the next working day from the voluntary patient's discharge request without a temporary court order. (See NJSA § 30:4-27.20).

What does the facility need to submit to the court to get a court order to keep you committed involuntarily?

Because voluntary patients do not enter the facility from a screening service referral, the court requires different materials to issue a temporary court order. For voluntary patients, the facility submits two certificates from clinicians to the court explaining the need for involuntary commitment. At least one of these certificates must be written by a psychiatrist. (See NJSA § 30:4-27.10(b)).

If a court issues an order of commitment, how long will you be committed for?

If a judge signs a temporary order of commitment, a hearing must be held within 20 days, and future proceedings follow the involuntary commitment hearing process. (See N.J. Ct. R. 4:74-7(c)(1)).

What should you do if a judge orders you to be involuntary committed when you were previously on voluntary status?

If this happens, you should consult our resource on [Involuntary Patient Legal Rights](#).

You may also want to consider contacting the Division of Mental Health Advocacy (MHA) in the Office of the Public Defender. An attorney representative with the MHA may be assigned to provide representation to you at initial commitment hearings, periodic review hearings, and placement hearings if you are an adult or child in the counties of Atlantic, Burlington, Camden, Cape May, Cumberland, Essex, Gloucester, Hudson, Hunterdon, Mercer, Monmouth, Ocean, Salem, Somerset, and Union, or a child in Bergen County.

If you currently reside in any of these counties, you may call MHA's toll-free number at 1-877-285-2844, or you can contact them by email at njmentalhealthcares@mhanj.org.

Can you convert your involuntary status to voluntary status?

A patient may elect to convert his or her involuntary status to a voluntary status at any time after being committed. (See N.J. Ct. R. 4:74-7(g)). The court must hold a hearing within 20 days to determine whether you have the capacity to make an informed decision to convert to voluntary status and whether the decision was made knowingly and voluntarily.

If you have questions regarding your commitment at a psychiatric facility, please contact the intake line at Disability Rights NJ. For more information about your legal rights when receiving treatment in an institution, please click [here](#).