

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.

What happens if a voluntary patient requests to be discharged?

A voluntary patient may request their discharge from the psychiatric facility at any time, either orally or in writing.

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

- 1) The facility may discharge the patient. 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.
 - 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).
 - 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 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 NJ R. 4:74-7(c)(1)).

An important note about voluntary commitment: New Jersey courts have found that even if the State would be able to prove that an individual meets the criteria to be committed involuntarily, if the individual does not refuse treatment and wishes to be receive treatment as a voluntary patient, he or she should receive treatment as a voluntary patient. In addition, a patient may elect to convert his or her involuntary status to a voluntary status at any time after being committed. (See NJ R. 4:74-7(g)).

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**.