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OHIO LEGAL RIGHTS SERVICE PUBLICATIONS

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Ohio Legal Rights Service FACT SHEET:

When a Person Wants to Be Released from a Psychiatric Hospital

You Have the Right to be Told Your Rights

- If you are not charged with a crime but have been taken to a psychiatric hospital against your wishes, the hospital must tell you and give in writing the following information:
 - 1) You may immediately make telephone calls in order to get help with legal, medical and mental health issues.
 - 2) You have a right to hire your own lawyer. If you can't afford a lawyer, the court will appoint one to work with you.
 - 3) You have the right to an independent expert evaluation of your mental condition. If you can not afford this evaluation, it must be provided to you no charge.
 - 4) You have a right to a hearing where a judge or referee will decide whether or not you will be labeled mentally ill and found to be in need of hospitalization by court order. This is called a "civil commitment hearing."

You Should Find Out Whether You are a Voluntary or Involuntary Patient

- Your rights in the hospital can depend on whether you are a voluntary or involuntary patient. If you do not know whether you are a voluntary or involuntary patient, you can ask the hospital clients' rights officer to find out for you.

Voluntary Patient

- "Voluntary" patient means that you (or your court appointed guardian if you have one) want to admit yourself into a psychiatric hospital.
- If you have admitted yourself into a psychiatric hospital, you can not simply sign yourself out and leave when you decide to do so.
- There is a process which must be followed in order to leave. The hospital staff can try to keep you by asking the court to commit you. If the court orders you to stay at the hospital, you become an "involuntary patient."

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If You are an Voluntary Patient You Have the Right to Request Your Release from the Hospital

Request for Release From a Hospital by Writing a “Three-Day Letter”

The hospital must inform you of your right to ask to be released from the hospital.

If you are voluntarily admitted to the hospital and want to leave, you must write a “three-day letter.”

How Do I Write a “Three-Day Letter?”

You write a three day letter by asking in writing for your release from the hospital. If you ask for help, the hospital must provide you with help in making this request. Your letter can be short. Write your letter to the hospital Medical Director and state that you want to leave. Hospital staff, with approval from your county mental health board, will decide whether or not to release you or to ask the court for an order to keep you at the hospital.

What Happens After I Write a “Three-Day Letter?”

After you hand in your three-day letter the hospital has 3 work days (Monday through Friday - not weekends and holidays) to tell you whether or not you should leave. It is important to know that, even if you signed yourself in voluntarily, hospital staff can keep you if they think you should stay by filing papers to try to commit you.

One of three things can happen after you sign a “three-day letter:”

- 1) Hospital Agrees You Should Leave: If the hospital agrees that you should be released, you get to leave; OR
- 2) Hospital Wants You to Stay: When the hospital staff wants to keep you longer, they must file papers (called an affidavit) within 3 work days of receiving your letter. Your request for release becomes a request for a hearing. You will receive notice of a court hearing; OR
- 3) If the hospital does not file an affidavit within three work days, you must be released immediately.

Involuntary Patient

- “Involuntary patient” means that you are placed or kept in the hospital against your wishes by a court order.. Anyone can sign a paper (called an affidavit) saying you are “mentally ill and in need of hospitalization by court order.” The court will decide whether or not you meet the legal definition of “mental illness,” and whether you are an immediate danger to yourself or others. If the court finds that you are mentally ill and that you present a danger, you can be ordered (committed) to your county’s mental health board. The board can then place you at the hospital.
- Involuntary patients can also request their release from the hospital.

If You are an Involuntary Patient You Can Request to Become a Voluntary Patient

- You have the right to ask to become a voluntary patient at any time. If you have been involuntarily committed to the hospital by a court and want to try to leave the hospital,

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you can request voluntary admission. You can ask to change from an involuntary to a voluntary patient by making an application for voluntary admission.

What Happens During the Court Hearing?

- The hospital must convince the court that you meet the legal definition of mental illness and, because of that, you are an immediate danger to yourself or others. If you do not meet these standards you should not be committed to the hospital by the court.
- If the court finds that you are mentally ill and present a danger to yourself or others, the court can order you to be hospitalized against your wishes for 90 days.

The Hospital Can Ask the Court to Keep You for More than 90 days . . .

- If the agency or hospital to which you are committed wants to keep you for longer than 90 days, it must file with the court an application for continued commitment. This application must be filed at least 10 days before your period of commitment is over. If the application is not filed at least 10 days before your 90 days is up, you must be discharged immediately.
- A full hearing must be held. The hospital must prove to the court that you are a danger to yourself or others. If the court decides to commit you it may order you held for up to 2 years. A hearing must then be held at least every 2 years.
- Although hearings must be held every 2 years without your request, you can request a hearing every 180 days.

Discharge of Involuntary Patients

- After the court has ordered you to stay at the hospital, the hospital must examine you at least every 30 days. When the hospital finds that you are no longer mentally ill and a danger to yourself or others, the hospital must discharge you.

Remember These Rights

1. You have the right to request voluntary admission;
2. You have the right to a court appointed attorney at the court hearing;
3. You have the right to ask for help from hospital staff to make sure that your rights are carried out;
4. You have the right to file a grievance with the hospital if you feel your rights have been violated. You can ask the hospital's clients' rights officer for help in filing your grievance.

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Ohio Legal Rights Service Attachment for FACT SHEET:

Ohio Revised Code Section 5122.29 Rights of Patients

All patients hospitalized or committed pursuant to this chapter have the following rights:

- (A) The right to a written list of all rights enumerated in this chapter, to that person, his legal guardian, and his counsel. If the person is unable to read, the list shall be read and explained to him.
- (B) The right at all times to be treated with consideration and respect for his privacy and dignity, including without limitation, the following:
 - (1) At the time a person is taken into custody for diagnosis, detention, or treatment under Chapter 5122. of the Revised Code, the person taking him into custody shall take reasonable precautions to preserve and safeguard the personal property in the possession of or on the premises occupied by that person;
 - (2) A person who is committed, voluntarily or involuntarily, shall be given reasonable protection from assault or battery by any other person.
- (C) The right to communicate freely with and be visited at reasonable times by his private counsel or personnel of the legal rights service and, unless prior court restriction has been obtained, to communicate freely with and be visited at reasonable times by his personal physician or psychologist.
- (D) The right to communicate freely with others, unless specifically restricted in the patient's treatment plan for clear treatment reasons, including without limitation the following:
 - (1) To receive visitors at reasonable times;
 - (2) To have reasonable access to telephones to make and receive confidential calls, including a reasonable number of free calls if unable to pay for them and assistance in calling if requested and needed.

(E) The right to have ready access to letter writing materials, including a reasonable number of stamps without cost if unable to pay for them, and to mail and receive unopened correspondence and assistance in writing if requested and needed.

(F) The right to the following personal privileges consistent with health and safety:

(1) To wear his own clothes and maintain his own personal effects;

(2) To be provided an adequate allowance for or allotment of neat, clean, and seasonable clothing if unable to provide his own;

(3) To maintain his personal appearance according to his own personal taste, including head and body hair;

(4) To keep and use personal possessions, including toilet articles;

(5) To have access to individual storage space for his private use;

(6) To keep and spend a reasonable sum of his own money for expenses and small purchases;

(7) To receive and possess reading materials without censorship, except when the materials create a clear and present danger to the safety of persons in the facility.

(G) The right to reasonable privacy, including both periods of privacy and places of privacy.

(H) The right to free exercise of religious worship within the facility, including a right to services and sacred texts that are within the reasonable capacity of the facility to supply, provided that no patient shall be coerced into engaging in any religious activities.

(I) The right to social interaction with members of either sex, subject to adequate supervision, unless such social interaction is specifically withheld under a patient's written treatment plan for clear treatment reasons.

As used in this section, "clear treatment reasons" means that permitting the patient to communicate freely with others will present a substantial risk of physical harm to the patient or others or will substantially preclude effective treatment of the patient. If a right provided under this section is restricted or withheld for clear treatment reasons, the patient's written treatment plan shall specify the treatment designed to eliminate the restriction or withholding of the right at the earliest possible time.

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