



Disability Law Center's Self-Advocacy Materials

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Rights In Facilities

This document is designed for people with disabilities.

The information is about your legal rights and how to advocate for yourself as a resident in Massachusetts.

Contact us to request this information in an alternative format.

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Funding

DLC receives funding from government grants, private foundations, and individual contributions. For details about our funding and programs, please visit our website:

<https://dlc-ma.org>



Admission to a Psychiatric Hospital

You Will Learn About:

- Sectioning
- Rights When in a Hospital
- Commitment

This document includes general information about legal issues and is intended to be used for informational purposes only. These informational materials should not be taken as legal advice, and do not create an attorney-client relationship. The outcome of any particular matter will depend on a variety of factors. For specific legal problems you would need to contact an attorney.

Sectioning

Can I Be Taken To A Hospital Even If I Don't Want To Go?

Yes, a person with a mental illness can be taken to a hospital even when they don't want to go. This can happen when a doctor, nurse, psychologist, social worker or police officer believes that the individual might hurt themselves or someone else. Section 12 of Chapter 123 of the Massachusetts General Laws gives a person this power.

This is sometimes called "sectioning" a person. It is important to understand that being "sectioned" is not the same as being committed. When a person is "sectioned" they are sent to the Emergency Department of a hospital to see if they need to be placed in a hospital. A person can be "sectioned" if the doctor thinks that the person needs to be in a hospital so they do not hurt themselves or others. If the doctor decides that the person does not need to be in a hospital, they will be allowed to leave.

Rights When in a Hospital

What Happens if the Doctor Decides I Need to be in the Hospital?

If the doctor decides a person needs to be in an inpatient psychiatric hospital, that person needs to be told about three rights.

Those rights are:

- The right to talk to an attorney;
- The right to an emergency hearing; and,
- The right to sign in to the hospital as a "conditional voluntary" patient.

What Are My Rights To Talk With An Attorney?

Once someone is in the hospital, the hospital has to tell the patient that they can talk to an attorney. The hospital will call the Committee for Public Counsel Services (CPCS). CPCS will give the patient an attorney. The attorney will come and meet with the patient to talk about their rights and options.

What Are My Rights To An Emergency Hearing?

A patient can ask for an emergency hearing if he thinks his placement in the hospital was done in a way that broke the law. The court will have the hearing on the day the request is filed with the court. It will not take longer than the next business day.

It is a good idea to meet with the CPCS attorney before requesting an emergency hearing. The attorney can help decide whether asking for an emergency hearing is the right choice.

What Are My Rights To Sign In To The Hospital As A “Conditional Voluntary” Patient?

Many people “sign in” to the hospital as “conditional voluntary” patients without knowing what “signing in” means.

When a person “signs in” to the hospital they are agreeing to stay in the hospital and receive treatment. It is important to understand that when a patient “signs in,” they lose their right to meet with an attorney. They also lose their right to request an emergency hearing.

Sometimes “signing in” can be a good substitute to commitment. “Signing in” does not mean the patient has to take medication.

It is a good idea to meet with an attorney before “signing in.” The attorney can help decide whether “signing in” is the best choice.

Commitment

What Happens if I Don’t Sign In as a ‘Conditional Voluntary’ Patient?

A patient who does not “sign in” only has to stay in the hospital for three days. At the end of three days, the hospital must let the patient go, or ask (“petition”) the court to keep the patient in the hospital (“commit”).

If the hospital wants to “commit” the patient, the patient will be given an attorney. This attorney will represent the patient in court. The patient’s attorney can ask the court for money to hire a doctor who does not work at the hospital. The doctor can speak for the patient at the commitment hearing.

The hospital has to prove that the patient needs to stay in the hospital. The hospital must prove this beyond a reasonable doubt. If the hospital does not prove their case, the patient is free to leave.

If the hospital proves the person needs to be committed, they can keep the patient in the hospital for “up to” six months. The hospital can also ask the court to order the patient to take medicine. The order will last as long as the patient is committed.

How Long Can I Be Kept In A Psychiatric Hospital?

A patient who is committed may have to stay for “up to” six months. If the patient is not a danger to himself or others before the six months is up, he can leave before the six-month mark.

Do I Have To Be Let Go Once My Commitment Ends?

If the hospital thinks that the patient needs to stay in the hospital after the six months is up, they will ask the court for a re-commitment. A second commitment can be “up to” one year.

Sometimes a hospital will let a patient sign in as a “conditional voluntary” patient instead of asking the court for re-commitment. If the patient is allowed to “sign in” they are not committed anymore. They cannot be ordered to take medications unless there is a new court-ordered treatment plan. A court-ordered treatment plan for a non-committed person is called a Rogers order.

If I am Committed, Can I Appeal?

A patient can appeal their commitment at any time. A patient can appeal if they can show that there was a mistake made during the commitment hearing. This is called a 9(a) appeal. A 9(a) appeal has to be filed within ten days of the commitment.

Another type of appeal is when the person is asking to be released because they are not a danger to themselves or others anymore. This is called a 9(b) appeal. Even though it is called an appeal, it is really a formal review by the court to see if the patient still needs to be committed.

The patient appealing has to prove their case.

If I “Signed In,” When Can I Leave the Hospital?

A person who has signed in as a “conditional voluntary” patient can “sign out” at any time. They can do this by telling the hospital that they do not agree to stay in the hospital or to accept treatment. This is called “signing a three-day note.” It is called a three-day note because the hospital has three business days to decide if they will allow the patient to leave the hospital or ask the court to “commit” the patient.

Most hospitals have a form called a three-day note. However, there does not need to be an actual note. If a form is used, it is a good idea to keep a copy.