

§3870. Convalescent status

1. Authority. The chief administrative officer of a state mental health institute may release an improved patient on convalescent status when the chief administrative officer believes that the release is in the best interest of the patient and that the patient does not pose a likelihood of serious harm. The chief administrative officer of a nonstate mental health institute may release an improved patient on convalescent status when the chief administrative officer believes that the release is in the best interest of the patient, the patient does not pose a likelihood of serious harm and, when releasing an involuntarily committed patient, the chief administrative officer has obtained the approval of the commissioner after submitting a plan for continued responsibility.

A. Release on convalescent status may include provisions for continuing responsibility to and by the psychiatric hospital, including a plan of treatment on an outpatient or nonhospital basis. [PL 2007, c. 319, §16 (AMD).]

B. Before release on convalescent status under this section, the chief administrative officer of a psychiatric hospital shall make a good faith attempt to notify, by telephone, personal communication or letter, of the intent to release the patient on convalescent status and of the plan of treatment, if any:

- (1) The parent or guardian of a minor patient;
- (2) The legal guardian of an adult incompetent patient, if any is known; or
- (3) The spouse or adult next of kin of an adult competent patient, if any is known, unless the patient requests in writing that the notice not be given.

If the chief administrative officer of the psychiatric hospital to which the patient is currently admitted has reason to believe that notice to any of the individuals listed in this paragraph would pose risk of harm to the patient, then notice may not be given to that individual. [PL 2007, c. 319, §16 (AMD).]

C. The psychiatric hospital is not liable when good faith attempts to notify the parents, spouse or guardian have failed. [PL 2007, c. 319, §16 (AMD).]

D. Before releasing a patient on convalescent status, the chief administrative officer of the psychiatric hospital shall advise the patient, orally and in writing, of the terms of the patient's convalescent status, the treatment available while the patient is on convalescent status and, if the patient is a voluntary patient, of the patient's right to request termination of the status and, if involuntarily committed, the means by which and conditions under which rehospitalization may occur. [PL 2007, c. 319, §16 (AMD).]

[PL 2007, c. 319, §16 (AMD).]

2. Reexamination. Before a patient has spent a year on convalescent status, and at least once a year thereafter, the chief administrative officer of the psychiatric hospital shall reexamine the facts relating to the hospitalization of the patient on convalescent status.

[PL 2007, c. 319, §16 (AMD).]

3. Discharge. Discharge from convalescent status is governed as follows.

A. If the chief administrative officer of the psychiatric hospital determines that, in view of the condition of the patient, convalescent status is no longer necessary, the chief administrative officer shall discharge the patient and make a report of the discharge to the commissioner. [PL 2007, c. 319, §16 (AMD).]

B. The chief administrative officer shall terminate the convalescent status of a voluntary patient within 10 days after the day the chief administrative officer receives from the patient a request for discharge from convalescent status. [PL 1997, c. 422, §22 (AMD).]

C. Discharge from convalescent status occurs upon expiration of the period of involuntary commitment. [PL 2005, c. 519, Pt. BBBB, §11 (NEW); PL 2005, c. 519, Pt. BBBB, §20 (AFF).]

[PL 2007, c. 319, §16 (AMD).]

4. Rehospitalization. Rehospitalization of patients under this section is governed as follows.

A. If, prior to discharge, there is reason to believe that it is in the best interest of an involuntarily committed patient on convalescent status to be rehospitalized, or if an involuntarily committed patient on convalescent status poses a likelihood of serious harm, the commissioner, or the chief administrative officer of the psychiatric hospital with the approval of the commissioner, may issue an order for the immediate rehospitalization of the patient. [PL 2007, c. 319, §16 (AMD).]

B. [PL 1997, c. 422, §22 (RP).]

C. If the order is not voluntarily complied with, an involuntarily committed patient on convalescent leave may be returned to the psychiatric hospital if the following conditions are met:

- (1) An order is issued pursuant to paragraph A;
- (2) The order is brought before a District Court Judge or justice of the peace; and
- (3) Based upon clear and convincing evidence that return to the psychiatric hospital is in the patient's best interest or that the patient poses a likelihood of serious harm, the District Court Judge or justice of the peace approves return to the psychiatric hospital.

After approval by the District Court Judge or justice of the peace, a law enforcement officer may take the patient into custody and arrange for transportation of the patient in accordance with the provisions of section 3863, subsection 4.

This paragraph does not preclude the use of protective custody by law enforcement officers pursuant to section 3862. [PL 2007, c. 319, §16 (AMD).]

[PL 2007, c. 319, §16 (AMD).]

5. Notice of change of status. Notice of the change of convalescent status of patients is governed as follows.

A. If the convalescent status of a patient in a psychiatric hospital is to be changed, either because of a decision of the chief administrative officer of the psychiatric hospital or because of a request made by a voluntary patient, the chief administrative officer of the psychiatric hospital shall immediately make a good faith attempt to notify, by telephone, personal communication or letter, of the contemplated change:

- (1) The parent or guardian of a minor patient;
- (2) The guardian of an adult incompetent patient, if any is known; or
- (3) The spouse or adult next of kin of an adult competent patient, unless the patient requests in writing that the notice not be given.

If the chief administrative officer of the psychiatric hospital to which the patient is currently admitted has reason to believe that notice to any of the individuals listed in this paragraph would pose risk of harm to the person, then notice may not be given to that individual. [PL 2007, c. 319, §16 (AMD).]

B. If the change in convalescent status is due to the request of a voluntary patient, the chief administrative officer of the psychiatric hospital shall give the required notice within 10 days after the day the chief administrative officer receives the request. [PL 2007, c. 319, §16 (AMD).]

C. The psychiatric hospital is not liable when good faith attempts to notify the parents, spouse or guardian have failed. [PL 2007, c. 319, §16 (AMD).]

[PL 2007, c. 319, §16 (AMD).]

SECTION HISTORY

PL 1983, c. 459, §7 (NEW). PL 1987, c. 736, §54 (AMD). PL 1997, c. 422, §22 (AMD). PL 2005, c. 519, §§BBBB11,12 (AMD). PL 2005, c. 519, §BBBB20 (AFF). PL 2007, c. 319, §16 (AMD).

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