

STATE OF LOUISIANA
LOUISIANA DEPARTMENT OF HEALTH
Office of Behavioral Health

DISCHARGE PROCEDURES

(Notification to be provided to Patients on Admission to a Mental Health Facility La. R.S. 28 – Mental Health Law. See LA R.S. Title 28, Sections 52.1-52.3, 53, 56 and LA Children’s Code Article’s 1460 & 1469. These directives must be fulfilled in order for discharge to be valid.)

It is advised that all patients should discuss their condition and desire for discharge with their treating physician. The treating physician and/or the Director of a mental health treatment facility may routinely discharge a patient at any time. However, the law prescribes certain methods for a patient to obtain discharge as listed below.

(1) Informal Voluntary Admission – Sec. 52.1 B

B. Any patient pursuant to the Section shall have the right to leave the treatment facility at any time during the normal day-shift hours of operation, which shall include but not be limited to nine a.m. to five p.m.

(2) Any person who is mentally ill or suffering from substance abuse: Formal Voluntary Admission – Sec. 52.2 B

B. A patient admitted under the provisions of this Section shall not be detained in the treatment facility for longer than seventy-two hours after making a valid written request for discharge to the director unless an emergency certificate is executed pursuant to R.S. 28:53, or unless judicial commitment is instituted pursuant to R.S. 28:54, after making a valid written request for discharge to the director of the treatment facility.

(3) Non-Contested Admission – Sec. 52.3 B & C

B. A noncontested admission may be made by a physician to a treatment facility in order to initiate a complete diagnostic and evaluative study. The diagnosis and evaluation shall include complete medical, social, and psychological studies and, when medically indicated, any other scientific study which may be necessary in order to make decisions relative to the treatment needs of the patient. In the absence of specified medical reasons, the diagnostic studies shall be completed in fourteen days. Alternative community-based services shall be thoroughly considered.

Following a review of the diagnostic evaluation study, the director of the treatment facility shall determine if the person is to remain on noncontested status, is to be discharged, is to be converted to formal or informal voluntary status, or is to be involuntarily hospitalized pursuant to R.S. 28:53 or R.S. 28:54. Nothing in this Section shall be interpreted to prohibit the director of a treatment facility from transferring the patient to another treatment facility when it is medically indicated.

C. A person admitted pursuant to this Section may object to his admission at any time. If the person informs a staff member of his desire to object to his admission, a staff member shall assist him preparing and submitting a valid written objection to the director. Upon receipt of a valid objection, the director shall release the person within seventy-two hours unless proceedings are instituted pursuant to R.S. 28:53 or R.S. 28:54.

(4) Emergency Certificate – Sec..53 I

I. Every patient admitted by emergency certificate shall be informed in writing at the time of his admission of the procedures of requesting release from the treatment facility, the availability of counsel, information about the mental health advocacy service, the rights enumerated in R.S. 28:171 and the rules and regulations applicable to or concerning his conduct while a patient in the treatment facility. If the person is illiterate or does not read or understand English, appropriate provisions should be made to supply him this information. In addition, a copy of the information mentioned in this Subsection must be posted in any area where patients are confined and treated.

(5) Judicial Commitment; review; appeals – Sec. 56 A, C - H

A. (3) The court may at any time, upon application or upon its own motion, order a new hearing to be held in order to determine whether the involuntary status should be continued.

C. Notwithstanding an order of judicial commitment, the director of the treatment facility to which the individual is committed is encouraged to explore treatment measures that are medically appropriate and less restrictive. The director may at any time convert an involuntary commitment to a voluntary one should he deem that action medically appropriate. He shall inform the court of any action in that regard. The director may discharge any patient if in his opinion discharge is appropriate. The director shall not be legally responsible to any person for the subsequent acts or behavior of a patient discharged in good faith.

D. A person who is judicially committed shall be allowed to appeal devolutively from the order to the court of appeal. If the lower court finds the individual indigent, it shall allow the appeal to be taken in forma pauperis. Upon perfection of an appeal, it shall be heard in a summary manner, taking preference over all other cases except similar matters.

E. Upon affirmation of the order of commitment, the individual may apply for appropriate writs from the Supreme Court which shall be heard in a summary manner.

F. Nothing in this Title shall deny the right of habeas corpus, including an application based upon a change of circumstances.

G. (1) A person who is judicially committed may be conditionally discharged for a period of up to one hundred twenty days by the director or by the court. The patient may be required to report for outpatient treatment as a condition of his release. The terms and conditions of the conditional discharge shall be specifically set forth in writing and signed by the patient. A copy of the conditional discharge shall be given to the patient and explained to him before he is discharged.

H. All patients presently unrepresented by privately retained counsel and who are the subject of involuntary commitment under any prior statute shall have their cases reviewed by attorneys provided by the mental health advocacy service within one year from the effective date of this Section, or be discharged or be committed again according to the provisions of this Chapter.

(6) Minors Sixteen Years and Older: Children's Code:

Art. 1460. Parental admission of minor; objection request for discharge

A. Any minor may be admitted to a treatment facility for inpatient care and treatment upon application of a parent, tutor, or, in the absence of a parent or tutor, of a caretaker to the director of a treatment facility if the director finds that the minor has a mental illness or suffers from substance abuse which has a substantial adverse effect on his ability to function and requires care and treatment in an institution. Within twenty-four hours of admission, the minor shall be examined by a physician who shall set forth in detail in the patient's medical record the reasons for the continued need of confinement and treatment of the minor. The parent, tutor, or caretaker may request the minor's discharge pursuant to the provisions of Paragraph C.

B. A minor who is eligible for admission pursuant to Paragraph A of this Article and who is in such a condition that immediate hospitalization is necessary may be admitted upon the application of any interested adult, when after diligent effort the minor's parent, tutor, or caretaker cannot be located. Following the admission of the minor, the director of the treatment facility shall continue efforts to locate the minor's parent, tutor, or caretaker. If such person is located and consents in writing to the admission, the minor may continue to be hospitalized. However, upon notification of the admission, the parent, tutor, or caretaker, may request the minor's discharge pursuant to the provisions of Paragraph C.

C. Upon receipt of a request for discharge, the director of the treatment facility shall release such minor within seventy-two hours unless proceedings are begun pursuant to Chapter 7 or 9 of this Title

Art. 1469 Formal Voluntary Admission Part B:

B. A minor patient admitted under the provisions of this Article shall not be detained in the treatment facility for longer than seventy-two hours after making a valid written request for discharge to the director of the treatment facility unless an emergency certificate is executed pursuant to Article 1422 or unless judicial commitment is instituted pursuant to Chapter 9 of this Title.