



INFOGUIDE

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Involuntary Patients

Disclaimer: This INFOGUIDE is intended for use as general information and is prepared for purposes of convenience only. It is not to be relied upon as legal advice or legal authority. If you have inquiries as to legal proceedings, or if you would like more detailed information regarding legislation, you should consult a lawyer.

What does it mean to be an "involuntary patient"?

- If you are an involuntary patient in a psychiatric or mental health unit of a hospital it means that you are not free to leave the hospital without permission. Before you become an involuntary patient, a doctor (usually a psychiatrist) must assess you and place you on a Certificate of Involuntary Admission (Form 3). Before the Form 3 expires, a doctor may extend the certificate by issuing a Certificate of Renewal (Form 4). These Forms give the doctor the legal authority to keep you in the hospital.

How did I become an involuntary patient?

- You became an involuntary patient once your doctor assessed you and signed a Certificate of Involuntary Admission (Form 3) or a Certificate of Renewal (Form 4). The *Mental Health Act* sets out two reasons that a person may be held as an involuntary patient: (1) the person is a danger to themselves, another person, or may unintentionally injure themselves OR (2) the person's condition is deteriorating and they require hospitalization. The specific legal reasons are very detailed. If you would like the actual wording please ask the Patient Advocate (if there is one in your facility) or Rights Adviser for the material from the *Mental Health Act*.

How long can I legally be kept in the hospital on a Form 3 or Form 4?

- If you have been placed on a Certificate of Involuntary Admission a Form 3 it lasts for up to two weeks. After that, you can be kept in the hospital but a

doctor must assess you and complete a Certificate of Renewal, a Form 4. The first time a Form 4 is signed, you can be kept in the hospital for up to one month. The second time you can be kept up to two months, the third time up to three months. After the fourth Form 4 you will have an automatic hearing before the Consent and Capacity Board (the "Board"). The Board is a tribunal that is independent of the hospital. You are not required to attend this hearing but you can if you choose. Your doctor may decide at any time that you no longer need to be an involuntary patient and may revoke the Form 3 or Form 4.

Does the doctor have to tell me why the Form 3 or Form 4 was completed?

- Yes. The Mental Health Act states that if the doctor completes a Form 3 or a Form 4 you must be advised in writing that your legal status has been changed from voluntary to involuntary. This means that you will be given a Form 30, "Notice to the Patient". The Form 30 will let you know when the Form was completed, when it will expire and the reason that your status was changed from voluntary to involuntary.

Do I get Rights Advice?

- Yes. As soon as the doctor has changed your legal status from voluntary to involuntary he or she must "promptly" notify the Rights Adviser of the change in your legal status. The Rights Adviser will receive the Form 30, "Notice to the Patient" and will promptly meet with you to discuss your legal options and rights as an involuntary patient.

How can the Rights Adviser help me?

- The Rights Adviser will talk to you about your rights and options. If you choose to challenge the doctor's decision that you must stay in the hospital as an involuntary patient you have the right to apply for a hearing before the Consent and Capacity Board. The Rights Adviser can help you by completing the appropriate application for a Board hearing, assist you in applying for Legal Aid (you will only get legal aid if you qualify financially) and in contacting a lawyer if you want a lawyer to represent you at the hearing. The Rights Adviser will ask you to sign an Authorization Form giving him or her permission to assist you with each of these tasks. Rights Advisers will not choose a lawyer for you but will supply you with a list of lawyers that have special training in mental health law and who accept Legal Aid as payment for their services.

Will the Rights Adviser tell the doctor what we talked about?

- No. The Rights Adviser will not tell your doctor what you spoke about or any details of your conversation unless you instruct the Rights Adviser to do so. However, by law the Rights Adviser must leave the doctor a "Confirmation of

Rights Advice Form" a Form 50 once they have met with you and explained your rights and options.

What are my options if I disagree with the doctor's findings?

- You have several options that you can pursue if you disagree with the doctor's findings that you need to be kept in the hospital as an involuntary patient. First, you can do nothing at all and allow the form to expire. Second, you can talk to the doctor to see if he or she is willing to change your status from involuntary to voluntary after assessing you. Third, you can apply for a hearing before the Consent and Capacity Board to challenge the doctor's findings.

Can the doctor cancel the Form 3 or Form 4?

- Yes. The doctor can cancel the Form 3 or Form 4 if he or she believes that you no longer meet the criteria for admission as an involuntary patient or if you agree to remain in hospital as a voluntary patient. If the doctor agrees to change your status from involuntary to voluntary then a "Change to Informal or Voluntary Status Form" a Form 5 must be completed. You should receive a copy of this form and be advised that you are now a voluntary patient.

Can I apply to the Consent and Capacity Board?

- Yes. You can apply to the Consent and Capacity Board once on a Form 3 and then each time a Form 4 is renewed. You can have only one hearing before the Board per certificate.

How long will it take to get a Hearing?

- The Consent and Capacity Board must hold the hearing within seven days of your application for a Hearing. However, the hearing can be held beyond the seven days if you consent to this. For more information about the Consent and Capacity Board visit the website ccboard.on.ca or ask your Rights Adviser for additional information.

How long will it take for the Board to make a decision?

- The Board will usually make a decision on your case within 24 hours of your hearing. The Board may either "confirm" the doctor's decision to make you an involuntary patient or they will "rescind" the order. If the order is rescinded, you become a voluntary patient. The decision will be given to you in writing. If you would like to receive "reasons for the decision" you must request these within 30 days of your hearing.

Can I appeal a Consent and Capacity Board decision?

- Yes. If you believe that the Board has made an error in fact or law you may appeal the decision to Superior Court. You must file your appeal with the Court within the limitation period. To learn more about this process see the InfoGuide "How to Appeal a Consent and Capacity Board Decision."

Questions?

If you have questions contact your local Patient Advocate or Rights Adviser or call the central office of the Psychiatric Patient Advocate Office at 1-800-578-2343.