

Have you been involuntarily admitted to a hospital?

Find out your rights and where to get help.



If you have been involuntarily admitted to a hospital, you have rights

- Under the *Mental Health Act 2007* (the Act), you must be seen by a doctor within 12 hours. You can only be forced to stay if that doctor believes you are 'a mentally ill person' or 'a mentally disordered person' as defined under the Act.
- **Another doctor must see you "as soon as possible"**. This would normally be within the next few days. One of the two doctors who sees you must be a psychiatrist. If the two doctors disagree, you will see another psychiatrist who will decide if you need to stay in hospital.
- Under the Act you may be kept in a hospital for up to three working days if the doctors consider you to be 'a mentally disordered person'. If you are considered to be 'a mentally ill person' you may be kept in a hospital until a mental health inquiry is held by the Mental Health Review (the Tribunal).
- Your admission will be reviewed by the Tribunal after you have been in hospital for at least one week.

If you believe that you should not be detained in a hospital, you may ask to be discharged.

How do I request a discharge?

All you have to do is tell a staff member that you want to be discharged. It is best to complete the attached Discharge Form so that there is a record that the request has been made.

What happens next?

You must be seen by a doctor and have your request to be discharged decided within three working days. If you are not discharged or have

not been given an answer that satisfies you within three working days, you can appeal to the Tribunal. You can request this verbally or by completing the Appeal Form and giving it to a doctor or nurse. The hospital must then arrange for the Tribunal to hear your appeal.

Can Legal Aid NSW help?

Yes. A lawyer will come and see you or talk to you before your first appearance before the Tribunal.

Call LawAccess NSW on **1300 888 529** for information and advice about any mental health or guardianship law problem.

About the Mental Health Review Tribunal

The Tribunal makes decisions about the care, treatment and recovery of people who experience mental illness. Other than for mental health inquiries, which are generally conducted by a single legal member of the Tribunal, each Tribunal panel consists of three members: a lawyer, a psychiatrist, and another suitably qualified member. All Tribunal members have extensive experience in mental health.

The Tribunal conducts hearings in hospitals and community health centres throughout NSW. Except at a few large hospitals in Sydney, most tribunal hearings and mental health inquiries are conducted by video conference. The Tribunal does not operate in a formal manner like a court, but will ask questions and consider reports presented to it to ensure that people are given a fair opportunity to be heard and are not made subject to involuntary treatment unless the legal basis for it is established and the requirements of the *Mental Health Act 2007* are met.

The hospital won't discharge me. I want to appeal.

If your request for discharge has been denied, you may appeal to the Mental Health Review Tribunal. Complete this appeal form and give it to a nurse or doctor.

To: The Registrar
Mental Health Review Tribunal
PO Box 2019
BORONIA PARK NSW 2111

My name is:

I am an involuntary patient at:

(name of mental health facility)

I have applied to an authorised medical officer for discharge under Section 44 (1) of the *Mental Health Act 2007*.

I want to appeal to the Mental Health Review Tribunal against the authorised medical officer's:

refusal to discharge me

failure to make a determination on my application for discharge within 3 working days after I made the application.

(Tick one box only)

Signed

Date

DISCHARGE FORM

I want to be discharged. This is my request.

Complete this form first and give it to a nurse or doctor to request your discharge from hospital.

To the authorised medical officer:

Hospital name:

I wish to be discharged from this hospital, pursuant to section 42 of the *Mental Health Act 2007* (the Act).

My name is:

My date of birth is:

Signed

Date

Call LawAccess NSW on 1300 888 529 for more assistance.

To the authorised medical officer

**To:
The Registrar
Mental Health Review Tribunal
PO Box 2019
BORONIA PARK NSW 2111**

Need more help?

You can call LawAccess NSW on **1300 888 529** for information and advice about any mental health or guardianship law problem.

You can also speak to the Legal Aid lawyer who visits the hospital.

This publication is a general guide to the law. You should not rely on it as legal advice, and we recommend that you talk to a lawyer about your situation.

The information is correct at the time of printing, however it may change. For more information contact LawAccess NSW on **1300 888 529**.



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For more information about Legal Aid NSW services:



Do you need help to contact us?



If you need an interpreter, call the Translating and Interpreting Service (TIS National) on **131 450** (9am – 5pm) and ask for LawAccess NSW.



If you find it hard to hear or speak, call us through the National Relay Service (NRS) on **133 677** and ask for LawAccess NSW or visit www.relayservice.gov.au