

THE LEGAL RIGHTS OF *INVOLUNTARY* PATIENTS AT INPATIENT PSYCHIATRIC FACILITIES AND INSTITUTIONS

What is involuntary legal status at a psychiatric facility?

An individual is involuntarily committed to a psychiatric facility when they are required by court order to remain in that facility against their will. This resource guide will detail the entire involuntary commitment process, beginning when an individual is initially transported to a mental health screening service, through the individual's initial commitment hearing. This guide will provide the legal rights individuals have throughout the involuntary commitment process.

What is the standard for involuntary commitment?

In order for an individual to be committed involuntarily, the following requirements are needed: (1) the patient is mentally ill; (2) the mental illness causes the patient to be dangerous to self or others or property as defined by NJSA §§ 30:4-27.2(h) and -27.2(i); and (3) appropriate facilities or services are not otherwise available. (See NJ R. 4:74-7 (b) (3)(A)).

What are the steps of being involuntarily committed to a psychiatric facility?

After a Screening Service Evaluation:

Screening Service Evaluation

- There are multiple screening centers throughout the State of New Jersey. These facilities can include certain general hospitals and short-term care facilities.
- An individual may be brought to a screening service by family members, emergency responders, or law enforcement.
- The facility will evaluate the individual's mental health. The screening service may keep the individual for up to 24 hours from their initial admission to the screening service.

- If the screening service determines the individual is a danger to themselves or others, the screening service may refer an individual to an inpatient psychiatric facility for involuntary admission.
- The screening service creates a screening certificate, which confirms its determination.
- (See NJSA § 30:4-27.4).

Involuntary Admission to Psychiatric Facility after a Screening Service Referral

- A facility may keep an individual for up to 72 hours from when the screening service referral.
- During these 72 hours, the facility must initiate court proceedings for the individual's involuntary commitment to a psychiatric facility and receive a temporary court order for the individual's commitment.
- The court must issue a temporary court order within 72 hours of the screening service referral. A facility cannot detain an individual for more than 72 hours without a temporary court order.
- (See NJ R. 4:74-4(b)(1)).

After an Independent Application:

- If a screening service is not used, proceedings for involuntary commitment may begin by filing an application that is supported by two clinical certificates, one of which must be prepared by a psychiatrist. These certificates must be filed with the court. (See NJSA §§ 30:4-27.2(b) and 30:4-27.10).
- If the application is made after a voluntary patient requests discharge from a facility or hospital, the patient may be detained for up to 48 hours.
- If the application is made by an independent application, there can be no involuntary commitment to treatment prior to the entry of a temporary commitment order.
- (See NJ R. 4:74-4(b)(2)).

The Temporary Court Order:

- The court will issue a temporary court order if there is probable cause to believe that a person needs inpatient treatment requiring involuntary commitment, pending an initial commitment hearing.
- The court must schedule the initial commitment hearing within 20 days of when the screening certificate took effect.
- (See NJ R. 4:74-7(c)).

The Initial Commitment Hearing:

- The initial hearing must be held within 20 days from the initial inpatient admission. (See NJSA § 30:4-27.12(a)).

Your Rights at a Commitment Hearing:

New Jersey courts have held that because of the important liberty interests in being free from unnecessary commitment, all procedural and substantive safeguards must be followed closely. (See *In re R.S.*, 263 N.J. Super. 428, 432 (App. Div. 1993)).

- You have the right to be present at your commitment hearing. (See NJSA § 30:4-27.14(b) and NJ R. 4:74-7(e)).
- You have the right to an attorney. (See NJSA § 30:4-27.12(d) and NJ R. 4:74-7(e)).
- You have the right to an in camera hearing, which means that there is not an audience. (See NJSA § 30:4-27.14(e)). However, you may request that your family attend and testify on your behalf at your hearing. (See NJSA § 30:4-27.13(c)).
- The decision of the judge must be supported by the testimony of a psychiatrist on your treatment team. (See NJ R. 4:74-7(e)).
- Other members of the treatment team may also testify at the hearing. (See NJSA § 30:4-27.13(b) and NJ R. 4:74-7(e)).
- You and your attorney have the right to present evidence and cross-examine witnesses. (See NJSA § 30:4-27.14 and NJ R. 4:74-7(e)).
- You have the right to testify at your hearing. (See NJ R. 4:74-7(e)).
- At the conclusion of the hearing, the judge will sign an order. (See NJSA § 30:4-27.15 and NJ R. 4:74-7(h)). This decision may order your discharge, order your continued involuntary, or convert your status to Conditional Extension Pending Placement (CEPP). The special legal status of CEPP is discussed here.

After the Commitment Hearing

- When the hearing is complete, the judge must, at that time, schedule a date for a subsequent hearing. (See NJSA § 30:4-27.15(a)).
- Periodic review hearings that follow involuntary commitment are required at three, nine, and twelve months, and then annually. (See NJSA § 30:4-27.16).
- You have the right to receive notice of any pending hearings. (See NJSA 30:4-27.13(a)).
- You have the right to have hearings more frequently, and you may discuss this with your attorney. However, the court usually will not schedule hearings less than 30 days apart, unless there are extraordinary circumstances. (See NJSA 30:4-27.16).

If you have questions regarding your commitment at a psychiatric facility, please contact the intake line at Disability Rights NJ. For more information about your legal rights when receiving treatment in an institution, please [click here](#).