



Questions and answers about involuntary commitment

Disability Rights Center - NH

What does it mean to be “involuntarily committed?”

The term is usually used to mean confinement in the New Hampshire State Hospital or other designated facility by order of a court. In New Hampshire, persons with mental illness who are determined to be dangerous may also be confined to other psychiatric facilities under some circumstances and may be subject to certain conditions of treatment and supervision after their release.

Who makes the decision to commit someone?

Judges make the final decision to force someone’s admission to the hospital. However, a doctor alone can authorize the initial confinement of someone.



In cases where the person has not already been confined, the process commonly begins when a doctor determines that a person is in such a mental condition due to mental illness that he poses a likelihood of danger to himself or others. To be sufficient to justify confinement, the medical examination must be performed or supervised by a doctor or nurse practitioner who has been approved to perform such examinations. It also must occur within 3 days of the request to confine someone.

Once the initial medical determination is properly certified, a person may be confined for up to 10 days, not including weekends. This is known as an involuntary emergency admission, or IEA. The IEA authorizes a police officer to transport the person to the New Hampshire Hospital or other “designated receiving facility.” Currently, designated receiving facilities are the Elliott Hospital in Manchester, Franklin Hospital in Franklin, Portsmouth Regional Hospital, and the Cypress Center in Manchester.

Although the doctor’s certification is enough to trigger confinement, a district court judge must review the IEA within 3 days, excluding Sundays and holidays. The person who requested the IEA (“the petitioner”) must present enough information to the judge to show that “probable cause” supports the IEA. The probable cause standard is fairly lenient; it is the same standard used to determine if there is enough reason to arrest someone for a crime, for example. The person being confined will have an attorney appointed for representation at the IEA hearing.

If a judge determines that probable cause exists, the person’s confinement can continue for 10 days beyond the initial 3 days. From that point, one of 3 things may happen:

- A request for longer commitment may be filed in the probate court, in which case the person may be held while that court considers the request;
- A second IEA may be put into place, but must be based on a new dangerous act by the person during the initial IEA. Another ten day period would apply, and a new probable cause determination would have to be made by a district court judge.
- The person is discharged from the IEA, either because the hospital determines that they are no longer mentally ill and dangerous, or because the ten day period expires.

Please note:

This is a simplified description of the civil commitment process. You should not rely on it for advice about a particular case. If you or someone you know is subjected to an involuntary commitment proceeding, the court should appoint a lawyer in the case so that advice and assistance can be given in the particular case.

What is the process for forcing someone to stay at the New Hampshire Hospital for longer than ten days?

The probate court handles requests for longer-term confinement and forced treatment. Typically, petitions are brought concerning people who have previously been confined under an IEA, or due to criminal prosecution, or due to a previous commitment.

To begin the process, a formal petition must be filed which includes several things:

- A description of specific acts that show that the person is in a dangerous condition due to mental illness. The danger alleged in the petition may be either to self or to others;
- A certification from an approved physician who has examined the person and agrees that the person is dangerous due to mental illness;
- A list of witnesses who can testify to the contents of the petition.

The court must hold a hearing on the petition within 15 workdays. A lawyer is appointed to represent the person, and a psychiatric examination is ordered. If the person is in custody due to an IEA, then that custody can continue while the probate court considers the petition.

The psychiatrist files a report with the court and a copy is given to the lawyer for the person. The report is required to address whether the person is dangerous, the appropriate treatment for the person and whether hospitalization is necessary for that treatment. The psychiatrist should provide an estimate of the length of treatment needed and include in appropriate cases a period of conditional discharge during which the person would be required to follow treatment conditions following release from the hospital.

Can the psychiatrist's opinions be challenged?

Yes. At the probate court hearing, the attorney may cross-examine the psychiatrist and present other evidence to attempt to challenge the psychiatrist's conclusions. Other psychiatrists could be called to testify, but it is unusual for there to be more than one psychiatric examination in a case.

What rights does one have while involuntarily committed?

New Hampshire's commitment law specifically states that admission to the mental health services system does not in and of itself affect such civil liberties as the right to vote, to enter into contracts, to marry or divorce, or to hold motor vehicle or professional licenses. It is important to know, however, that the probate court in a guardianship proceeding can take away certain rights. Commitment proceedings can be accompanied by guardianship proceedings, or the New Hampshire Hospital can petition the probate court during the period of commitment to appoint a guardian. The New Hampshire Hospital may initiate guardianship proceedings due to a belief that medications should be administered despite the patient's objections.

Can a person who has been committed be forced to take medication against their will?

Neither an IEA nor a probate commitment is enough to force the committed person to take medication. Forced treatment of committed persons can only be given in three circumstances:

- If there is an emergency situation where a physician determines that serious physical harm would be inflicted if treatment were not given immediately, a person can be given medication without their consent. However, they cannot be subjected to psychosurgery, electro convulsive therapy, sterilization, or experimental treatment of any kind.
- If the person is considered incapable of making an informed decision, and there is an urgent need for medical or psychiatric treatment, such treatment can be authorized, but only after a lawyer is provided to the person and a hearing is held by the Department of Health and Human Services.
- If a guardian is appointed by the probate court, the guardian can authorize treatment even if the committed person objects.

Who can find out that a person has been involuntarily committed?

In general, there is a right to keep information confidential about any hospitalization, and this applies to involuntary hospitalizations. There are circumstances where the information could become known, however. For example, certain information regarding treatment following an IEA or probate commitment can be given to persons living with or providing care to persons who were subject to such commitments. The patient, however, must be told about the intended release of information and the reasons for it. Some professional licensing organizations still ask questions that may require disclosure of information about prior commitments. Some inquiries about mental illnesses have been found to be in violation of the Americans with Disabilities Act because they may screen out people with disabilities that are otherwise qualified.

How long can someone be held at the New Hampshire Hospital involuntarily?

The initial IEA expires after ten days. If someone is subject to a probate commitment, the commitment order can last for as long as 5 years, and can be renewed. The court should tailor the commitment period to the treatment needs in the case. If the staff at the New Hampshire Hospital determines that discharge is appropriate, a person may be released before the end of the commitment period ordered by the court.

What is a conditional discharge?

A person who has been committed to the New Hampshire Hospital can be released under either a conditional or absolute discharge. If the hospital determines that inpatient treatment is no longer necessary but that conditions of treatment are needed to prevent a recurrence of a dangerous condition, the patient may be required to comply with those treatment conditions. Patients released on a conditional discharge are required to receive treatment from a community mental health center. An absolute discharge means the patient has no conditions placed on their release.

What happens if the conditions of the discharge are violated?

The person may be returned to the New Hampshire Hospital if it is shown that the conditions were violated. That return does not require that the person be shown to actually be a danger to self or others, but there are specific procedures that must be followed both before and after the return to the hospital. The person is entitled to a lawyer to assist in the process and can challenge the revocation of the conditional discharge.

Under what circumstances can a commitment be renewed?

The probate court can renew a commitment if the person is, at the time of the recommitment, dangerous to themselves or others. A person can also be recommitted to force them to remain on a conditional discharge if treatment is necessary to prevent the recurrence of the circumstances which led to the dangerousness. The person is entitled to the same safeguards as in the original commitment.



If you have legal questions or concerns about your conditional discharge, or you believe your rights have been violated, call Disability Rights Center - NH at:

1-800-834-1721