



# Disability Law Center's Self-Advocacy Materials

Updated January 2025

## Rights in Facilities

This document is designed for people with disabilities. The information is about your legal rights and how to advocate for yourself as a resident in Massachusetts.

Contact us to request this information in an alternative format.

617-723-8455  
800-872-9992  
[mail@dlc-ma.org](mailto:mail@dlc-ma.org)

### Funding

DLC receives funding from government grants, private foundations, and individual contributions. For details about our funding and programs, please visit our website:

<https://dlc-ma.org>



## Admission to a Psychiatric Hospital

### You Will Learn About:

- Sectioning
- Rights When in A Hospital
- Commitment

This document includes general information about legal issues and is intended to be used for informational purposes only. These informational materials should not be taken as legal advice, and do not create an attorney-client relationship. The outcome of any particular matter will depend on a variety of factors. For specific legal problems you would need to contact an attorney.

# Sectioning

## Can I Be Taken to A Hospital Even If I Don't Want to Go?

Yes, a person who is experiencing severe symptoms of a mental illness can be taken to a hospital for evaluation even when they don't want to go. This can happen when a doctor, qualified clinician, or police officer believes that the individual is a danger to themselves or others. Section 12 of Chapter 123 of the Massachusetts General Laws gives a person this power.

This is sometimes called "sectioning" a person. It is important to understand that being "sectioned" is not the same as being committed. When a person is "sectioned" they are sent to the emergency department of a hospital to see if they need to be placed in a hospital. At the emergency department, a doctor will examine the person. If the doctor decides that the person does not need to be in a hospital because there is no likelihood of serious harm as a result of mental illness, they will be allowed to leave.

## Rights When in A Hospital

### What Happens if the Doctor Decides I Need To be in the Hospital?

If the doctor decides a person needs to be in an inpatient psychiatric hospital, the person will be admitted to a psychiatric hospital for a period of up to three business days. If the person does not "sign in" to the hospital (explained below), the hospital must either discharge them by the end of the third business day or request that a court civilly commit the person to the hospital.

"Business days" do not include the day a person was admitted to the hospital. They also do not include weekends or holidays. For example, if the person was admitted on a Thursday, the first business day would be Friday and the third business day would be Tuesday.

Upon admission, the person needs to be told about:

- Their right to talk to an attorney;
- Their right to sign into the hospital as a "conditional voluntary" patient; and
- Hospitalization under Section 12 cannot exceed three business days.

### What Are My Rights to Talk with An Attorney?

Once someone is in a psychiatric hospital, the hospital staff must tell the person that they can talk to an attorney. The hospital will call the Committee for Public Counsel Services (CPCS). CPCS will assign an attorney. The attorney will come and meet with the person to talk about their rights and options.

### What Are My Rights to An Emergency Hearing?

A person can ask for an emergency hearing if they think their placement in the hospital was done in a way that broke the law. The court will hold the hearing no later than the next business day. It is a good idea to meet with the CPCS attorney before requesting an emergency hearing because the court can only consider whether the person's admission was the result of "abuse or misuse" of the law. For example, the court cannot review the doctor's decision that the person is a danger to themselves or others. It can, however, review whether a doctor at the hospital met with them in a timely fashion, or if the hospital failed to inform the person of their right to request an attorney, or whether they received an attorney from CPCS, or other abuse or misuse of the law. The CPCS attorney can help determine whether asking for an emergency hearing is the right choice.

### What Are My Rights to Sign In To The Hospital As A "Conditional Voluntary" Patient?

Many people "sign in" to the hospital as "conditional voluntary" patients without knowing what "signing in"

means.

When a person signs in to the hospital they are agreeing to stay in the hospital and receive treatment. It is important to understand that when a person “signs in,” they lose their right to be discharged within three business days. They also lose their right to request an emergency hearing.

Sometimes a person decides that signing in is preferable to fighting against a civil commitment petition. For example, signing in usually means that a person will have more control over medication decisions. In certain situations, signing in and agreeing to work with the treatment team might lead to a quicker discharge.

If a person wants to sign in, the hospital will assess whether the person has the “capacity” to understand that they are: (1) agreeing to remain in the hospital; (2) agreeing to “accept treatment”; and (3) required to provide the hospital with three business days written notice of their intention to leave the hospital.

It is often a good idea to meet with an attorney before signing in. The attorney can help decide whether signing in is the best choice.

## Commitment

### What Happens if I Don’t Sign In as a ‘Conditional Voluntary’ Patient?

When a person does not “sign in,” the hospital must let the person go after three business days unless the hospital asks (“petitions”) the court to keep the person in the hospital (“commit”). If the hospital wants to petition for commitment, it must file the petition with the district court before the end of the third business day.

If the hospital wants to “commit” the person, they will be given an attorney. This attorney will represent the person in court. The person’s attorney can ask the court for money to hire a doctor who does not work at the hospital. If the doctor believes the person should not be committed, the doctor can speak to the court at the commitment hearing. If the person does not wish this doctor to speak to the court for any reason, any information the person has shared with the doctor will remain confidential.

The hospital must prove that the person needs to stay in the hospital. The hospital must prove this beyond a reasonable doubt. If the hospital does not prove their case, the person is free to leave.

If the hospital proves the person needs to be committed, they can keep the person in the hospital for “up to” six months. The hospital can also ask (“petition”) the court to order the person to take medication while in the hospital. The order will only last as long as the person is committed. It is important to know that the attorney can also help the person challenge the hospital’s medication petition.

### How Long Can I Be Kept in A Psychiatric Hospital If I Am Committed?

A person who is committed may have to stay for “up to” six months. However, most persons in “acute care” psychiatric hospitals are discharged within a few weeks. If the person is not a danger to themselves or others before the six months is up, the hospital should permit their discharge at that time.

### Do I Have to Be Let Go Once My Commitment Ends?

If the hospital thinks that the person needs to stay in the hospital after the six months is up, they will ask the court for a re-commitment. A second commitment can be “up to” one year.

Sometimes a hospital will let a person “sign in” as a “conditional voluntary” patient instead of asking the court for re-commitment. If the person is allowed to sign in, they are not committed anymore. A “conditional voluntary” patient cannot be ordered to take medications unless the probate court orders a treatment plan. This

court-ordered treatment plan for a non-committed person is called a Rogers guardianship.

## I Am Committed, Can I Appeal?

A person always has a right to appeal their commitment. This is called a 9(a) appeal. A notice of appeal has to be filed within ten days of the commitment. The person will be appointed an appellate attorney who must show that there was a mistake made during the commitment hearing.

A 9(a) appeal usually takes longer than the actual commitment. For that reason, if a person's main goal is discharge from the hospital, they might want to file a 9(b) "Application for Discharge." This involves asking the superior court to order the hospital to discharge them because they are not a danger to themselves or others anymore.

## If I "Signed In," When Can I Leave the Hospital??

A person who has signed in as a "conditional voluntary" patient can request to leave at any time by giving three business days' written notice of their intention to leave. This is often called "signing a three-day note" because the hospital has three business days to decide if they will allow the person to leave the hospital or ask the district court to "commit" the person.

Most hospitals have "three-day note" forms, but the notice does not require a particular form. If there is no form, the person should convey in writing that they intend to leave the hospital. Upon request, the hospital staff must provide reasonable assistance to the person in completing the written notice.

It is a good idea to request and keep a copy of the written notice.

## Further Reading

For more information, please consult Mental Health Advisors Committee's guide on admission to psychiatric hospitals: [https://mhlac.org/wp-content/uploads/2018/10/admission\\_and\\_discharge.pdf](https://mhlac.org/wp-content/uploads/2018/10/admission_and_discharge.pdf)