

Frequently Asked Questions About Involuntary Hospitalization

What is an Emergency Involuntary Admission?

An Emergency Involuntary Admission is a process by which a person can be admitted to a psychiatric hospital (or psychiatric unit within a general hospital) against his or her will.

What is a "Blue Paper"?

The form that is used to request that someone be involuntarily admitted to a psychiatric hospital is commonly referred to as the "Blue Paper".

Who Can Request that Some One be Involuntarily admitted to a psychiatric hospital?

Anyone, including health care providers and law enforcement officers, may request that a person be involuntarily admitted to a psychiatric hospital. They do that by filling out Part 1 of the "Blue Paper". The person making the request must state:

- His/her belief that the person has a mental illness
- His/her belief that the person poses a likelihood of serious harm because of the mental illness
- Why s/he believes this

The person making the request must also provide name and address of the proposed patient's guardian, spouse, parent, adult child, next of kin, or (if none of those exists) friend, so that the hospital can fulfill its obligation to notify that person.

What Happens After Some One Starts a Blue Paper?

The person making the request then finds a doctor or other clinical person to do a "certifying examination." The examination is usually done by crisis staff or hospital staff.

The examiner completes Part 2 of the Blue Paper and must make an official statement that the person examined:

- Has a mental illness; and
- The illness causes a substantial risk of harm to self and/or others

The examiner must explain the reasons for her/his opinions and must also specify the least restrictive form of transportation that would meet the patient's clinical needs.

The person making the request for involuntary hospitalization (usually crisis or hospital staff) then locates a hospital bed and somebody to provide transportation, and asks a judge or justice of the peace to sign Part 3 of the Blue Paper, indicating that the application was completed in accordance with the law. The judge or justice of the peace doesn't make a determination about whether the statements on the application are true or not.

What Happens When the Person Gets to the Hospital?

When someone is taken to the hospital on a Blue Paper, the person is not automatically admitted. The head of the psychiatric hospital (or psychiatric unit) may do one of three things:

- Admit the person as an involuntary patient, so long as the certifying examination took place no more than two days before the date of admission
- Admit the person as a voluntary patient (if the person agrees)
- Not admit the person at all, if the hospital believes the person does not need involuntary hospitalization and does not need, or does not agree to, voluntary hospitalization

A doctor or psychologist must examine the patient within 24 hours of admission to the hospital. If that professional doesn't officially state that the patient has a mental illness and due to the mental illness poses a likelihood of serious harm, the person must be released. (The doctor or psychologist must be someone other than the professional who signed the Blue Paper).

How Long Do Blue Papers Last?

A hospital may keep a person on Blue Paper admission for 3 days, not counting the day of admission. If the third day is on a weekend or legal holiday, then the hospital can make the person stay until the next business day. The patient may be discharged sooner if the hospital decides that the person may be safely discharged. The hospital may also admit a person as a voluntary patient at any time during the Blue Paper period if the person agrees.

What Happens After the Blue Paper Admission?

If the hospital believes the person needs continued hospitalization beyond the blue paper period, then it may:

- Admit the person as a voluntary patient if the person agrees, OR
- File for a court order of hospitalization

If the hospital does neither of these, then it must discharge the person after the Blue Paper admission period.

What is a "White Paper"?

The application that the hospital files with the District Court in order to request a court order of hospitalization is commonly referred to as a "White Paper".

What Happens Once a Hospital Files a "White Paper" Requesting a Court Order of Hospitalization?

Once the hospital files a "White Paper" several things happen:

- The hospital must give the person a copy of the application
- The hospital must also give the person and guardian/next of kin notice of:
 - The right to hire an attorney or have an attorney appointed
 - The right to choose an independent examiner or have his/her attorney select an independent examiner
 - How to contact the District Court
- Within two days of the filing of the application the Court must notify the person and the person's guardian/next of kin that the application has been received and include the date of the hearing.

Does the Person Have a Right to Choose an Independent Examiner?

Yes. The court will appoint two professionals (physician or clinical psychologist) to examine the person. The person or his/her attorney can choose one of the examiners.

If both examiners find that the person doesn't have a mental illness, or doesn't pose a likelihood of serious harm, the person must be discharged. In other instances, a hearing will be held.

What Happens at a Court Commitment Hearing?

The hearing is held within 14 days of the application (unless a postponement of up to 10 days is requested by the hospital or patient for a good reason).

The hearing is conducted in an informal but orderly manner. The hearing may occur in a courthouse or at the hospital or other setting that is not likely to have a harmful effect on the mental health of the patient. Sometimes, the commitment hearing occurs at the hospital, with the judge participating from the courthouse by a video link. The person has the right to appear at the hearing, to testify, to have witnesses testify and to cross-examine the hospital's witnesses.

The hospital must prove, by recent evidence of the person's behaviors, that the person poses a likelihood of serious harm and that inpatient hospitalization is the best available means for treatment.

The hospital must include expert psychiatric testimony in its evidence.

The court must decide, based on "clear and convincing evidence" the following:

- Does the person have a mental illness?
- Does the person's recent actions and behavior demonstrate that the person poses a likelihood of serious harm?
- Is hospitalization the best available means for treatment? And
- Is the individual treatment plan offered by the hospital satisfactory?

If the court answers YES to all of the questions it may commit the person to the hospital as an involuntary patient for a period up to 4 months.

If the court answers YES to the first three questions but is not satisfied with the treatment plan it may postpone the hearing for 10 days to let the hospital revise its treatment plan.

If the court answers NO to ANY of the first three questions, the application must be dismissed and the person must be discharged from the hospital.

Does the Person Have a Right to Appeal the District Court Decision?

Yes. The person may appeal an order of commitment to the Superior Court. The appeal must be filed within 21 days of the District Court's order.

What Happens at the End of the Commitment Period?

The hospital may apply for recommitment for a period of up to 12 months if it believes that the person needs continued involuntary hospitalization.

The hospital must discharge the person at the end of the commitment period unless it has started recommitment procedures, or unless the person is suitable for and has accepted voluntary admission.

A hospital is not required to hospitalize a person for the entire period of commitment. In fact, it must discharge a person during the commitment period if it determines that conditions have changed and that the person no longer needs hospitalization.

What is Protective Custody?

Protective custody is the term for when a law enforcement officer takes a person into custody in order to bring that person to a doctor or psychologist for an evaluation for possible involuntary psychiatric hospitalization. The law enforcement officer must use the least restrictive form of transportation that meets the security needs of the situation when taking the person to the evaluation.

In order to take a person into protective custody, the law enforcement officer must have reasonable grounds, based on "probable cause" to believe that the person:

- May have a mental illness And
- Presents a threat of imminent and substantial physical harm to himself or to other persons due to mental illness

What is Convalescent Status?

Link to [Convalescent Status statute](#)

Maine statute allows hospitals to release patients on convalescent status. People on convalescent status technically remain patients of the hospital.

Convalescent status is considered a means to assist transition from hospitalization to community tenure. It is rarely used because the community mental health system now has the capacity to provide transition services to individuals leaving the hospital. When it is used, it is done in accordance with hospital policy.

A person who was a voluntary patient at the time convalescent status started may only be returned voluntarily unless “blue papers” are started.

A person who was an involuntary patient may be returned voluntarily OR involuntarily if:

- The hospital considered it in the person’s best interest or
- The hospital believes that the person poses a likelihood of serious harm, and
- The hospital issues an order for return and
- The order is endorsed by a judge or justice of the peace, and
- The judge decides it is in the person’s best interest to return or that the person poses a likelihood of serious harm.