Voluntary Patients

What does it mean to be Voluntary Patient?

- “Voluntary patient” is not defined in the Mental Health Act. However, the term “voluntary patient” is used in the Mental Health Act, and has been interpreted to mean a patient who is capable of making a decision to stay or leave a psychiatric facility.
- A voluntary patient is not:
  - an “involuntary patient”, defined in the Mental Health Act to mean a patient who is detained in a psychiatric facility under a certificate of involuntary admission or a certificate of renewal, or
  - an “informal patient”, defined in the Mental Health Act as a person who is a patient in a psychiatric facility, having been admitted with the consent of another person under the Health Care Consent Act.
- The Mental Health Act does not give a psychiatric facility the authority to detain you as a voluntary patient. In other words, as a voluntary patient, you are allowed to leave the hospital at any time and the hospital cannot restrain you or stop you from leaving.
- The hospital should tell you that you are a voluntary patient. As a voluntary patient, you have chosen to be under the care, observation and treatment of a psychiatric facility.
How do I become a voluntary patient?

- A voluntary patient agrees to be in the hospital. The doctor should make clear notes in your record of personal health information that you were told that you are a voluntary patient, as well as your agreement to be a voluntary patient.
- There are four ways to become a voluntary patient:
  1. You are admitted to the hospital as a voluntary patient if a doctor thinks you are in need of observation, care and treatment that can be provided by a hospital.
     Example:
     You go to the hospital because you are feeling unwell and the doctor agrees with you that you should be admitted because you need mental health care.
  2. You are detained in the hospital on an Application for Psychiatric Assessment (Form 1) or you are an involuntary patient with a certificate of involuntary admission or a renewal (Form 3 or 4) and the Form expires.
     Example #1:
     After being detained in the hospital on a Form 1 for 72 hours, the Form 1 expires but the doctor does not complete a certificate of involuntary admission (Form 3).
     Example #2:
     You are on a certificate of involuntary admission (Form 3) or a renewal (Form 4) and the doctor does not renew the Form 3 or 4.
  3. A doctor changes your status as a patient from involuntary to voluntary (Form 5) before your certificate of involuntary admission is set to expire.
     Example:
     You are detained in the hospital as an involuntary patient on a Form 3 which expires on June 15th. However, the doctor decides on June 10th that you no longer meet the criteria to be an involuntary patient. By completing a document called a Form 5, the doctor cancels the Form 3 and you become a voluntary patient.
  4. You are admitted to the hospital as a medical patient but the doctor feels that you should also be a psychiatric patient.
     Example:
     You go to the hospital because you are having chest pains and you are admitted as a medical patient to the cardiac unit. However, the doctor thinks you also meet the criteria to be a psychiatric patient and informs you of this decision, and you agree to be admitted as a psychiatric patient.
What are my rights as a voluntary patient?

- Voluntary patients cannot be detained. This means that you should be informed that you are a voluntary patient and that you must agree to stay in the hospital. Your agreement should be recorded in your record of personal health information.
- As a voluntary patient, you are allowed to leave the hospital whenever you choose. You do not need a pass, leave of absence or staff permission to leave the hospital. However, some hospitals have clinical or administrative policies that require patients to be assigned a particular privilege level or be given a pass before they are allowed to leave an inpatient unit or the hospital.
- The Mental Health Act does not give a psychiatric facility the authority to restrain you as a voluntary patient. However, staff have a duty to restrain if they feel that such immediate action is necessary to prevent serious bodily harm to you or others. But, once you are in restraints, a doctor must promptly assess you to see if the criteria for being an involuntary patient apply to you. If the criteria do not apply, then the restraints should be immediately discontinued.

Can a voluntary patient become an involuntary patient?

- Yes, if your doctor feels you meet the requirements set out in the Mental Health Act and he or she completes a certificate of involuntary admission (Form 3).

What will happen to me if I don’t want to stay as a voluntary patient or if I try to leave the hospital as a voluntary patient?

- Although you have the legal right not to be detained, the staff may stop you so that the doctor may examine you prior to your departure from hospital to ensure that you do not meet criteria for admission as an involuntary patient. The hospital may have a policy regarding this practice and staff may detain you pending examination by your doctor.
- While you may choose to exercise your right to leave hospital without consulting with your doctor or nursing staff, your doctor may issue an Application for Psychiatric Assessment (Form 1) if he or she feels that you
meet criteria for continued assessment. If a Form 1 is issued, police may return you to hospital.

- There is the possibility that if you do not comply with any of the hospital’s passes and privilege levels policies, the hospital may discharge you, making it difficult for you to obtain help from that same hospital in the future.
- Staff may also ask you to sign a document that you are leaving the hospital against medical advice (AMA).

Can I apply to the Consent and Capacity Board if I’m prevented from leaving although I’m a voluntary patient?
- No. But you can make an application to the Consent and Capacity Board if the doctor makes you an involuntary patient and places you on a certificate of involuntary admission (Form 3 or 4).

Do I have any legal recourse or options if I was prevented from leaving the hospital although I am a voluntary patient?
- This is a complex issue and it is recommended that you talk to a lawyer, if possible.
- If you wish to make a complaint about a doctor or nurse, you may choose to contact the College of Physicians and Surgeons of Ontario or the College of Nurses of Ontario.
- You could also try to lay a charge under section 80 of the Mental Health Act.

Questions?
- If you have questions, contact your local Patient Advocate or Rights Adviser or call the central office of the Psychiatric Patient Advocate Office at 1-800-578-2343.