

1975 WL 28957 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 26, 1975

*1 William S. Hall, M.D.
State Commissioner
S. C. Department of Mental Health
2414 Bull Street
Columbia, South Carolina 29201

Dear Dr. Hall:

I am writing in response to your letter dated June 10, 1975, in which you requested information concerning the discharge of certain patients and permitting patients the use of passes for extended period of time. The first issue presented was whether or not a patient who has left a state hospital without permission may be statistically or otherwise discharge without his or her returning to the hospital.

The law provides that the hospital may issue an order of reconfinement of a patient who has left the hospital without permission if it believes the conditions justifying confinement continue to exist. Sections 32-987 and 32-990, CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended. The issue presented in your letter concerns itself with the status of patients who have left without permission and who have not been reconfined. Section 32-991 specifically mandates that a patient who has left without permission and remains in absence for one year or more shall be removed from the current record of patients and he or she shall be statistically discharged. This section of the law does not speak to the situation wherein the patient has been away from the hospital for less than one year. Other provisions of the law dealing with the discharge of persons from hospitals make no reference to the discharge of persons in this category. Section 32-984, 32-985, and 32-983, CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended. Even though there is no specific discharge procedure which would cover persons within this category there would be no prohibition of the Department of Mental Health administratively classifying these persons as inactive patients and removing them from the current rolls. An administrative procedure such as this could not restore any rights lost upon commitment, but would permit the hospital to place these patients on the inactive rolls. This procedure could take place at any time the hospital desires. However, it appears that the hospital would be in a better position if these patients were either reconfined or discharged and not left at large without a hospital determination of their need for continued treatment.

The second issue presented in your inquiry was whether the law imposed some definitive time limitation on the length of a pass given to a patient. The law in South Carolina does not directly speak to this question or to the permissibility of passes to committed mental patients. A pass has traditionally been considered an element in the treatment or rehabilitation of the patient. The law permits and requires treatment of committed individuals. 'Every patient shall be entitled to care and treatment suited to his own particular needs and calculated to afford him a realistic opportunity to lead a useful and meaningful life and to return to society . . .' Section 32-976, see also Sections 32-911(11) and 32-994, CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended. The extent of and the usage of passes must be limited or permitted only in regard to its necessity and aid in the treatment of the individual patient and its use generally is within the discretion of the patient's attending physician. There are generally no other limitations on the use of passes for the civilly committed patient.

*2 Therefore, in response to your inquiries it appears that the hospital may administratively classify civilly committed patients who have left the premises without permission, who have not been returned, and who have been absent for less than one year as inactive patients. However, there is no statutory procedure by which a patient in this category could be

discharged and restored to full legal rights, and these persons would remain within the jurisdiction of the Department until granted an absolute discharge. It also appears that the Department of Mental Health's use of passes for civilly committed individuals is derived from and limited by the mandate that the patient must be treated and rehabilitated. The length of time a patient remains on pass is a medical decision.

Please feel free to contact this Office for further clarification and assistance in formulating policies in these matters.

With kind personal regards, I remain
Very truly yours,

Edwin E. Evans
Assistant Attorney General

1975 WL 28957 (S.C.A.G.)

End of Document

© 2018 Thomson Reuters. No claim to original U.S. Government Works.