

1973 WL 26986 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

November 29, 1973

\*1 Dr. William S. Hall  
State Commissioner  
Department of Mental Health  
2414 Bull Street  
Post Office Box 485  
Columbia, South Carolina 29202

Dear Dr. Hall:

Mr. Farroll Gunter, Registrar of the South Carolina State Hospital, has asked that I write you concerning the status of a voluntary patient and what restrictions, if any, may be imposed upon him. This is in addition to my letter to you of November 8, 1973, at which time I assumed that I had covered the questions raised by Mr. Gunter on discharges. Apparently there is a need of further clarification on the status of a voluntary patient.

When a voluntary patient is admitted under 32-951, in the opinion of this Office, the provisions which govern his stay in a state hospital are Sections 32-952 and 32-953 in addition to the general provisions applicable to all patients.

When a patient is admitted under 32-951, his discharge is pursuant to 32-952, or under the proceedings spelled out in 32-953. None of these sections refer to the discharge as a 'conditional discharge'. In the opinion of this Office, when the word 'discharge' is used in one of the voluntary admission proceedings it refers to a final, absolute, or unconditional discharge.

A voluntary hospitalization is not a formal adjudication of any issue, and hence the legal competency of the patient is not affected. In addition to the legal basis for his admission, the voluntary patient's status is somewhat analogous to a private patient in a private institution, with few exceptions. The question has not been previously raised as to whether or not a conditional discharge can be granted to a voluntary patient; however, the point needs clarification. The conditional discharge proceeding as provided for in 32-974, in the opinion of this Office, is not applicable to a voluntary patient for the following reasons. Section 32-974 permits conditions to be imposed by the Commission on the patient, and furthermore, this section indicates that when a conditional discharge is extended beyond one year, the patient or his committee may request the superintendent to re-examine the facts 'relating to the patient's confinement'. The word 'confinement' implies an involuntary proceeding was followed.

When a voluntary patient is released, there is no legal authority for the imposition of any restraints or conditions on his release. Any prior statements from this Office in conflict are superseded by this opinion. It is the opinion of this Office that a voluntary patient is not entitled to be granted a conditional discharge as a conditional discharge normally imposes some form of condition which must be complied with, and this is impermissible insofar as the status of a voluntary patient is concerned.

If the hospital believes that it needs to retain a particular patient who was admitted on a voluntary procedure, then it must institute the appropriate judicial admission proceedings as provided in Section 32-953. Of course, the voluntary patient is always subject to all the rules and regulations of a state hospital, and in this sense, appropriate conditions and restrictions may be imposed insofar as his medical welfare is concerned. By this I mean restrictions imposed on a patient solely for his medical welfare and in the course of his treatment. Normally, a voluntary patient should not be restricted in his visiting privileges, correspondence, etc., outside of normal rules for all patients, unless such restriction is based on sound medical reasons.

Yours very truly,

**\*2** Raymond G. Halford  
Assistant Attorney General

1973 WL 26986 (S.C.A.G.)

---

End of Document

© 2021 Thomson Reuters. No claim to original U.S. Government Works.