This handout explains your rights regarding discharge and discharge planning. Discharge is your release from the hospital and the discharge planning process identifies the services and supports you need after you leave the hospital. Your rights may be different depending on whether you are in a state hospital or a private psychiatric hospital. Certain patients with a history of repeated hospitalizations also have additional rights.

YOUR RIGHTS GENERALLY

Discharge planning should begin as soon as you are admitted to the hospital, whether you are admitted voluntarily or involuntarily. If you are admitted involuntarily and a court orders that you to be treated for a set period of time, discharge planning should still begin when you arrive at the hospital. Whether you are in a state hospital or a private psychiatric facility, you have a right to participate in the discharge planning process, which includes telling the hospital staff what services and supports you think you need when you leave the hospital and where you want to live.

With your permission, the hospital or facility must make a reasonable effort to notify your family before you are discharged. You can ask the hospital not to notify your family.

YOUR RIGHTS IF YOU ARE IN A STATE HOSPITAL

Immediately upon admission, the hospital and the Local Mental Health Authority (LMHA) that serves you (or is located where you live if you were not receiving services from an LMHA before you were admitted to the hospital) must begin the discharge planning process. Discharge planning must involve you, your treatment team, the designated staff from the LMHA and your legally authorized representative, if you have one.

In our experience, the LMHA does not always participate in the discharge planning process even though state regulations require it. Because the LMHA will likely be providing your services after you are discharged, it is important for them to be part of the conversation. If a representative is not present when your discharge plan is developed, you have a right to ask that they be there. Your treatment team social worker can help you make this request.

At a minimum, discharge planning must include the following activities:

- Identifying and recommending clinical services and supports you need after discharge (visits with a doctor, medication and medication supports etc.);
- Identifying and recommending non-clinical services and supports you need after discharge (housing, food and clothing etc.);
• Identifying potential providers and community resources for the services or supports recommended;
• Counseling you and your legally authorized representative, if any, to prepare for your care after discharge; and
• Your doctor must prepare a continuing care plan (unless you don’t need one) that includes:
  o a description of your recommended placement that reflects your preference, choice and available community resources;
  o a description of recommended services and supports you may receive after discharge;
  o a description of problems identified at discharge, which can include issues that may disrupt your stability in the community;
  o your goals and objectives as identified by your treatment team;
  o a final diagnosis or diagnoses;
  o providers you will be referred to for services and supports after discharge;
  o the amount of medication you will need after discharge until you are seen by a doctor; and
  o the individual or entity responsible for providing and paying for the medication. A state hospital must also provide you with a seven-day supply of medication at discharge.

YOUR RIGHTS IF YOU ARE IN A PRIVATE PSYCHIATRIC HOSPITAL

Discharge planning is also required if you are in a private psychiatric hospital, but your rights are a bit different. One important difference is that persons being discharged from a private psychiatric hospital are not always entitled to services from the Local Mental Health Authority (LMHA). However, if you are discharged from a hospital that has a contract with the LMHA or you were receiving services from the LMHA when you were admitted, a representative from the LMHA must participate in the discharge planning process.

Persons in private psychiatric facilities have the following rights related to discharge:

• Discharge planning must include you and must involve your Interdisciplinary Team (IDT);
• At a minimum, discharge planning must include in the following:
  o your IDT must recommend the services and supports you need after discharge, which must include a recommendation about placement (i.e. where you should live);
  o qualified staff members must arrange for the recommended services and supports;
  o qualified staff members must counsel you and your legally authorized representative or caregiver, as appropriate, to prepare everyone for post-discharge care;
• Your doctor must prepare a written discharge summary that describes:
  o the treatment you received in the hospital and your response;
  o your condition at discharge;
  o your placement after discharge;
  o the services and supports you will receive
  o your final diagnosis or diagnoses; and
  o the amount of medication you will need until you are evaluated by a physician and the person of entity responsible for paying for the medication. However, the hospital is not required to pay for the medication.
YOUR RIGHTS IF YOU HAVE A HISTORY OF REPEATED HOSPITALIZATIONS

People admitted to a state hospital three or more times in 180 days are considered at risk for future admission and there are somewhat different discharge planning requirements for these individuals.

During the discharge planning process, the state hospital and your designated Local Mental Health Authority must:

- Review your previous continuing care plans to determine the effectiveness of the clinical and non-clinical services and supports identified and recommend those services and supports that have been effective and those that will help prevent future admissions;
- Determine the availability and appropriateness of clinical and non-clinical services and supports in the intensity you need (i.e. type, amount and duration) to help prevent future admissions; and
- Consider whether you need to stay in the hospital.

If you believe your rights surrounding discharge and discharge planning have been violated, you should contact the facility's Client Rights Officer for help. If you are in a state hospital, you have a right to complain to the Office of Consumer Services and Rights Protection at (800) 252-8154. If you are in a private psychiatric hospital, you have a right to complain to the Department of State Health Services Health Facility Compliance Group at (888) 973-0022.

This handout is based upon the law at the time it was written. The law changes frequently and is subject to various interpretations by different courts. Future changes in the law may make some information in this handout inaccurate. The handout is not intended to and does not replace an attorney's advice or assistance based on your particular situation.

Disability Rights Texas' goal is to make each handout understandable by and useful to the general public. If you have suggestions for how this handout can be improved, please contact us.