

§ 122C-217. Discharge of individuals determined to be incapable.

(a) The responsible professional shall unconditionally discharge an individual admitted to a facility pursuant to this Part at any time it is determined the individual is no longer mentally ill or in need of treatment at the facility.

(b) An individual who has been voluntarily admitted to a facility pursuant to this Part and who is no longer deemed incapable shall be discharged upon his or her own request. An individual's request for discharge from a 24-hour facility shall be in writing. A facility may hold an individual who has been voluntarily admitted to a 24-hour facility pursuant to this Part for up to 72 hours after the individual submits a written request for discharge, but the facility shall release the individual upon the expiration of 72 hours following submission of the written request for discharge unless the responsible professional obtains an order under Part 7 or 8 of this Article to hold the client.

(c) A health care agent named in a valid health care power of attorney or the legally responsible person may submit on behalf of an individual admitted to a facility under this Part a written request to have the individual discharged from the facility, provided (i) the individual remains incapable at the time of the request and (ii) the request is not inconsistent with the authority expressed in the health care power of attorney or other controlling document. A facility may hold an individual for up to 72 hours after a health care agent submits a written request for the individual's discharge but shall release the individual upon the expiration of 72 hours following submission of the written request for discharge unless the responsible professional obtains an order under Part 7 or 8 of this Article to hold the client.

(d) If, in the opinion of a physician or eligible psychologist, an individual admitted to a facility under this Part regains sufficient understanding and capacity to make and communicate mental health treatment decisions while in treatment, and the individual refuses to sign an authorization for continued treatment within 72 hours after regaining decisional capacity, the facility shall discharge the individual unless the responsible professional obtains an order under Part 7 or 8 of this Article to hold the client.

(e) In any case in which an order is issued authorizing the involuntary commitment of an individual admitted to a facility under this Part, the facility's further treatment and holding of the individual shall be in accordance with Part 7 or 8 of this Article, whichever is applicable. (2018-33, s. 14.)