

## Want to Lodge a Complaint?

- 1) Make sure you have raised the issue with the health care provider or staff first before taking next steps.
- 2) If you would like to escalate the matter further, you can lodge a complaint online to the Health Care Complaints Commission at <https://ecomplaints.hccc.nsw.gov.au> or call 1800 043 159.

## Need Advocacy Support?

Visit the Official Visitors website <https://officialvisitorsmh.nsw.gov.au/> or call 1800 208 218 for more information.

## Need Legal Support

Contact the Mental Health Advocacy Service, Legal Aid on 1300 888 529. You can also visit their website <https://www.legalaid.nsw.gov.au/>

**BEING** – Mental Health Consumers is the independent, state-wide, peak organisation representing the views, perspectives and experiences of people who live with mental health issues in NSW. Our primary focus is to ensure the voices of people living with mental health issues are heard by decision makers, service providers, and the community, and recognised for the valuable expertise they bring to system and service reform.

Supported by NSW Health, BEING has developed this series of resources to help you learn about your rights as a mental health inpatient under the NSW Mental Health Act and the advocacy supports available to you.

For more information about BEING visit [being.org.au](http://being.org.au) contact [info@being.org.au](mailto:info@being.org.au) or call **1300 234 640**

To view an expanded version of this resource online, scan this QR code.



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# Mental Health and Your Rights

Applying for Leave or Discharge

# KNOW YOUR RIGHTS

## What Types of Leave Can I Request as Someone Admitted Involuntarily?

1. Escorted Leave – where you can temporarily leave the mental health unit under the supervision of a staff or family member
2. Unescorted Leave – where you can temporarily leave the mental health unit without the supervision of a staff or family member
3. Overnight or Extended Leave – where you are allowed to leave the mental health unit for a weekend or longer period of time. You will need to discuss your support needs and contact options with your treating team before you go on leave.
4. Leave for compassionate reasons – where you may be allowed to leave the mental health unit to receive medical treatment for physical health issues or other reasons as deemed appropriate by the authorised medical officer.

**Note:** While you have a right to request leave, this may not necessarily be granted if you are assessed by the medical officer as being a risk to yourself or others.

## How do I Request Leave From the Mental Health Unit?

Whether you have voluntarily admitted yourself or been involuntarily admitted, you will need to speak to the authorised medical officer on duty about getting temporary leave from the mental health unit.

The authorised medical officer needs to be sure that you will not cause harm to yourself or others before letting you leave the mental health unit.

## Can I Leave the Mental Health Unit When I Feel Like it?

If you have voluntarily admitted yourself, you can discharge yourself from the mental health unit any time once you have consulted the authorised medical officer on duty.

**Note:** If you have a Guardian, they need to consent before you are able to discharge yourself.

If you have been involuntarily admitted, you cannot leave the mental health unit without permission from the authorised medical officer on duty.

If you have been involuntarily admitted and leave the hospital without permission, the mental health unit has the right to contact the police to bring you back.

# EXERCISE YOUR RIGHTS

## How Can I Apply for Discharge?

1. Ask the authorised medical officer on duty verbally or in writing to be discharged.
2. If the authorised medical officer has refused to discharge you or has taken more than 3 days to make a decision, you can make an appeal to the Mental Health Review Tribunal.
3. To apply to the Mental Health Review Tribunal for a review of the medical officer's decision you can ask to fill out the Appeal By Patient Against Refusal to Discharge form.

If you want someone else to fill it out, then they can complete the Appeal By Person Other Than Patient Against Refusal to Discharge Patient form.

4. If you are unhappy with the Mental Health Review Tribunal's decision you can appeal to the Supreme Court. You will need to seek legal advice before you do this.

## How Can I Best Prepare for a Mental Health Review Tribunal Hearing?

1. Learn about your 'Statement of Rights'. Ask a staff member to explain it to you clearly if you need. You can also request a translator to help explain your rights.
2. Become clear on the following details for the meeting:
  - Where will it be held?
  - Who will be there?
  - What questions might they ask me?
  - What questions would I like to ask?
  - What kind of decisions can the Tribunal make?
  - What is the process going to look like?
3. Find a time and private space before the meeting to speak to your legal representative, friend, carer and/or advocate and prepare for the hearing.
4. Consider if you would like to have a peer worker, cross-cultural consultant, interpreter, or translator to be present at the hearing. Speak to your mental health staff members about organising this.