

**26-6b-3.1 Consent to order of restriction -- Periodic review.**

- (1)
- (a) The department shall either seek judicial review of an order of restriction under Sections 26-6b-4 through 26-6b-6, or obtain the consent of an individual subject to an order of restriction.
  - (b) If the department obtains consent, the consent shall be in writing and shall inform the individual or group of individuals:
    - (i) of the terms and duration of the order of restriction;
    - (ii) of the importance of complying with the order of restriction to protect the public's health;
    - (iii) that each individual has the right to agree to the order of restriction, or refuse to agree to the order of restriction and seek a judicial review of the order of restriction;
    - (iv) that for any individual who consents to the order of restriction:
      - (A) the order of restriction will not be reviewed by the district court unless the individual withdraws consent to the order of restriction in accordance with Subsection (1)(b)(iv)(B); and
      - (B) the individual shall notify the department in writing, with at least five business day's notice, if the individual intends to withdraw consent to the order of restriction; and
    - (v) that a breach of a consent agreement prior to the end of the order of restriction may subject the individual to an involuntary order of restriction under Section 26-6b-3.2.
- (2)
- (a) The department responsible for the care of an individual who has consented to the order of restriction shall periodically reexamine the reasons upon which the order of restriction was based. This reexamination shall occur at least once every six months.
  - (b)
    - (i) If at any time, the department determines that the conditions justifying the order of restriction for either a group or an individual no longer exist, the department shall immediately discharge the individual or group from the order of restriction.
    - (ii) If the department determines that the conditions justifying the order of restriction continue to exist, the department shall send to the individual a written notice of:
      - (A) the department's findings, the expected duration of the order of restriction, and the reason for the decision; and
      - (B) the individual's right to a judicial review of the order of restriction by the district court if requested by the individual.
    - (iii) Upon request for judicial review by an individual, the department shall:
      - (A) file a petition in district court within five business days after the individual's request for a judicial review; and
      - (B) proceed under Sections 26-6b-4 through 26-6b-6.

Amended by Chapter 297, 2011 General Session