

62A-15-637 Release of patient to receive other treatment -- Placement in more restrictive environment -- Procedures.

- (1) A local mental health authority or its designee may release an improved patient to less restrictive treatment as it may specify, and when agreed to in writing by the patient. Whenever a local mental health authority or its designee determines that the conditions justifying commitment no longer exist, the patient shall be discharged. If the patient has been committed through judicial proceedings, a report describing that determination shall be sent to the clerk of the court where the proceedings were held.
- (2)
 - (a) A local mental health authority or its designee is authorized to issue an order for the immediate placement of a patient not previously released from an order of commitment into a more restrictive environment, if the local mental health authority or its designee has reason to believe that the less restrictive environment in which the patient has been placed is aggravating the patient's mental illness as defined in Subsection 62A-15-631(10), or that the patient has failed to comply with the specified treatment plan to which he had agreed in writing.
 - (b) That order shall include the reasons therefor and shall authorize any peace officer to take the patient into physical custody and transport him to a facility designated by the division. Prior to or upon admission to the more restrictive environment, or upon imposition of additional or different requirements as conditions for continued release from inpatient care, copies of the order shall be personally delivered to the patient and sent to the person in whose care the patient is placed. The order shall also be sent to the patient's counsel of record and to the court that entered the original order of commitment. The order shall inform the patient of the right to a hearing, as prescribed in this section, the right to appointed counsel, and the other procedures prescribed in Subsection 62A-15-631(9).
 - (c) If the patient has been in the less restrictive environment for more than 30 days and is aggrieved by the change to a more restrictive environment, the patient or his representative may request a hearing within 30 days of the change. Upon receiving the request, the court shall immediately appoint two designated examiners and proceed pursuant to Section 62A-15-631, with the exception of Subsection 62A-15-631(10), unless, by the time set for the hearing, the patient has again been placed in the less restrictive environment, or the patient has in writing withdrawn his request for a hearing.
- (3) The court shall find that either:
 - (a) the less restrictive environment in which the patient has been placed is aggravating the patient's dangerousness or mental illness as defined in Subsection 62A-15-631(10), or the patient has failed to comply with a specified treatment plan to which he had agreed in writing; or
 - (b) the less restrictive environment in which the patient has been placed is not aggravating the patient's mental illness or dangerousness, and the patient has not failed to comply with any specified treatment plan to which he had agreed in writing, in which event the order shall designate that the individual shall be placed and treated in a less restrictive environment appropriate for his needs.
- (4) The order shall also designate the period for which the individual shall be treated, in no event to extend beyond expiration of the original order of commitment.
- (5) Nothing contained in this section prevents a local mental health authority or its designee, pursuant to Section 62A-15-636, from discharging a patient from commitment or from placing a patient in an environment that is less restrictive than that ordered by the court.

Renumbered and Amended by Chapter 8, 2002 Special Session 5
Renumbered and Amended by Chapter 8, 2002 Special Session 5