



Psykisk helse

ENGELSK

# **Legal protection in the event of commitment to mental health care**

Rettsikkerhet ved tvang



Kontrollkommisjonene i det psykiske helsevern



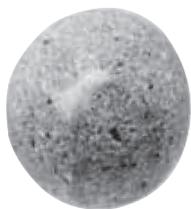
The main purpose of the supervisory commissions within Mental Health Care is to provide legal protection.

All institutions, regional mental health care centres and out-patients' clinics within mental health care are linked to a supervisory commission.

The supervisory commission is managed by a lawyer and consists of one doctor and two other members. One of the two other members shall have a history as a patient or relative, or shall have represented patient interests as an occupation or commission.

## The tasks of the supervisory commission

- The supervisory commission is the court of appeal for resolutions related to commitment to mental health care and other resolutions related to the use of coercion.
- On its own initiative and independent of any appeals, the supervisory commission shall monitor all resolutions related to the implementation of compulsory mental health care (commitment), shall automatically re-examine such resolutions after three months and shall be requested to provide consent should the compulsory mental health care be extended to a period in excess of one year.
- The supervisory commission monitors mental health care implemented without patient consent (forced drugging, force feeding) and the use of coercive means. The commission shall also carry out any inspections it deems necessary to ensure an individual's welfare.



## You have the right to appeal about ...

### **As a patient or a patient's closest relative, you can submit an appeal to the supervisory commission about:**

- *Observation or compulsory mental health care (commitment)*
- *Continuation or termination of compulsory mental health care*

You cannot be held under compulsory mental health care unless the terms of the Mental Health Care Act are fulfilled. The person responsible for passing the resolution regarding compulsory mental health care shall continuously assess whether the terms of this legislation are fulfilled, and when this is not the case, shall pass a resolution regarding termination (discharge). A patient or his/her closest relatives has the right to request termination of compulsory mental health care at any time.

- *Implementation of mental health care for children and young people between the ages of 12 and 16*

The implementation of mental health care for children and young people under 16 years of age requires consent from the person(s) with parental responsibility for the child. If the child has reached the age of 12 and the child him/herself does not agree with the resolution, the issue of implementation of mental health care shall be determined by the supervisory commission.

- *Consent to be subjected to the regulations regarding compulsory mental health care for up to three weeks*

In the case of voluntary mental health care, patients have the right to consent to be subjected to the regulations regarding compulsory mental health care for a period of up to three weeks. The decision made by the medical person responsible to request consent can be submitted to the supervisory commission.



- *Transfer to other institution or other measures*

Patients have the right to appeal against all resolutions regarding transfer to another institution or to other mental health care (e.g. from 24-hour compulsory care to compulsory care without overnight care). Any appeals against these types of resolutions will normally result in the postponement of the transfer until the appeal has been processed. However, this does not apply if a patient's health is in such a condition as to require immediate transfer.

- *Use of coercive means and restrictive measures during provision of mental health care*

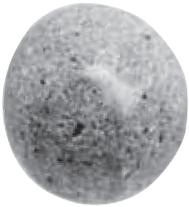
Once a resolution has been passed to place a patient under compulsory mental health care, this in itself does not provide the grounds for implementing compulsory measures. Compulsory measures may only be implemented according to a specific resolution under the provisions of the relevant legislation, and use of coercion may only be used when deemed strictly necessary.

Resolutions which can be appealed to the supervisory commission:

- Segregation
- Restrictions in the right to receive visitors and make use of the telephone, and to send and receive packages and post
- Inspections of rooms and property, and body searches
- Confiscation
- Drug testing of biological material
- Use of coercive means (mechanical coercive means, isolation, short-acting medication)

**Any resolutions regarding examination and treatment without specific consent can be appealed to the County Governor.**

Moreover, the supervisory commission monitors all compulsory treatment in its review of records of compulsory mental health care.



## How to submit an appeal

---

Appeals to the supervisory commission may be made in writing or orally. Appeals can be submitted to medical personnel at the institution who will forward the appeal to the supervisory commission, or directly to the supervisory commission either by telephone or letter, or when the commission sends a representative to the institution.

Where required, an institution's medical personnel shall assist you in writing the appeal.

## The right to legal aid

---

Patients have the right to free legal aid – i.e. free assistance by a lawyer – in connection with appeals related to resolutions regarding:

- Further examination (observation)
- Implementation, continuation or termination of compulsory mental health care (commitment)
- Transfer
- Children between 12 and 16 who disagree with admission to mental health care

If you wish to appeal to the County Governor against a decision concerning examination and treatment without your consent, you are entitled to up to five hours of free legal aid from a lawyer.

The supervisory commission will ensure that you are provided with contact with a lawyer.

## How your appeal is processed

---

Before the supervisory commission passes a resolution related to an appeal, it shall make sure that the case has been sufficiently examined.

As an integral part of the case preparation, the supervisory commission will often request a written report on the relevant resolution from the medical person responsible for the resolution.

Patients or their nearest relatives shall have the right to make a statement before the supervisory commission reaches its decision.

In the event of cases related to appeals against compulsory observation or compulsory mental health care, and related to transfer, a meeting will be held before a decision is made. The patient (or person acting on the patient's behalf) has the right to participate at this meeting.

The supervisory commission shall make a written and justified decision on the case. As a main rule, the decision shall be made within two weeks from the submission of the appeal. Both the hospital's and the institution's decision will be written in Norwegian. If you don't understand Norwegian or, for some other reason, are unable to read or understand the decision, you have a right to receive guidance regarding its content and, if necessary, with the help of an interpreter.

If an appeal against compulsory mental health care is rejected by the supervisory commission, the patient does not have the right to submit a similar appeal until a period of six months has passed.

## Appeal against the decision made by the supervisory commission

In certain cases, patients or close relatives of patients have the right to appeal against decisions to the courts.

In such a case, the resolution being appealed against must still be valid. If you wish to appeal to the County Governor regarding a resolution concerning examination and treatment without your consent, you are entitled to claim five hours free legal aid. The supervisory commission shall assist in gaining contact with a lawyer. Patients will have the right to free legal aid.

This applies to:

- Cases related to the implementation or continuation of compulsory mental health care
- Resolutions regarding the transfer from compulsory mental health care without overnight care in an institution to compulsory mental health care with overnight care in an institution

## The supervisory commission takes the initiative

On its own initiative, the supervisory commission shall ensure that the formal requirements for compulsory mental health care have been fulfilled, and that the resolution is based on a correct assessment of the legal terms.

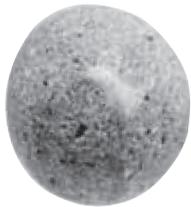
The institution shall therefore send a copy of all resolutions regarding further examination or compulsory mental health care to the supervisory commission. The institution shall also send to the supervisory commission copies of all documents on which a resolution has been based.



Irrespective of whether an appeal has been made regarding a resolution for compulsory mental health care, the supervisory commission shall, on its own initiative, assess whether further compulsory care is required once three months have passed since admission. At the same time, the supervisory commission shall check to make sure an individual plan has been compiled for each patient.

Once a year has passed since the implementation of compulsory care, the supervisory commission must be.

## The supervisory commission's welfare inspection



At least once a month, the supervisory commission shall visit institutions and departments which are approved for day and night compulsory mental health care for patients. The supervisory commission shall visit other institutions at least four times a year. Some of these visits must be unannounced.

During such visits, the supervisory commission shall contact patients and discuss matters of importance which relate to the patient's stay at the institution. Where possible, the commission shall provide advice and assistance.

The supervisory commission shall monitor the use of restrictive measures, i.e. it shall review all resolutions regarding the use of segregation, coercive treatment, inspection of rooms and possessions, etc. During such visits, the commission shall review the records of coercive treatment, coercive means and segregation.



The supervisory commission shall also investigate whether the institution has a set of house rules, and whether these comply with legislation.

The supervisory commission shall notify the County Governor of any serious conditions at an institution, and can

also discuss matters with the institution's management or the medical person responsible for the resolution regarding compulsory mental health care.

---

## Patient and user rights

Patients and their nearest relatives within the mental health care system have the same rights according to the Patient And User Rights Act as other patients.

This includes, include among other things, entitlement to your own choice of treatment in cases of planned admission, the right to an individual plan, the right to information and involvement and the right to access to medical journals. Health care workers and the supervisory commission have an obligation to client confidentiality.

The supervisory commission does not process appeals related to a breach of the Patient And User Rights Act. Any appeals/complaints related to the Patient And User Rights Act shall be submitted to the County Governor. For further information on Patient And User Rights Act, visit: [www.helsenorge.no](http://www.helsenorge.no).



## Useful addresses

---

- **County Governor**, [www.fylkesmannen.no](http://www.fylkesmannen.no)
- **The Norwegian Board of Health**, P.O. Box 8128 Dep, N-0032 Oslo, tel.: +47 21 52 99 00, [www.helsetilsynet.no](http://www.helsetilsynet.no)
- **The Health and Social Services Ombudsman**, [www.helsenorge.no/pasient-og-brukerombudet](http://www.helsenorge.no/pasient-og-brukerombudet)
- **The Parliamentary Ombudsman**  
(The Parliamentary Ombudsman for Public Administration), P.O. Box 3 Sentrum, N-0101 Oslo, tel.: +47 22 82 85 00, Free number: + 47 80 08 00 39, [www.sivilombudsmannen.no](http://www.sivilombudsmannen.no)
- **The Norwegian Directorate for Health**, P.O. Box 7000 St. Olavs plass, N-0130 Oslo, tel.: +47 24 16 30 00, [www.helsedirektoratet.no](http://www.helsedirektoratet.no)
- **The Ministry of Health and Care Services**, P.O. Box 8011 Dep, N-0030 Oslo, tel.: +47 22 24 90 90, [www.hod.dep.no](http://www.hod.dep.no)
- **Service-user organisations:**
  - **Mental Health Norway**, Storgata 38, N-0182 Oslo, tel.: +47 09875, [www.mentalhelse.no](http://www.mentalhelse.no)
  - **National association for relatives of mental healthcare patients (LPP)**, Karl Johans gate 6, N-01154 Oslo, tel.: +47 21 07 54 33, [www.lpp.no](http://www.lpp.no)
  - **The Adults for Children organisation – Voksne for Barn**, Stortorvet 10, N-0155 Oslo, tel.: +47 48 89 62 15, [www.vfb.no](http://www.vfb.no)
  - **Association for Norwegian patients – Norsk pasient forening**, Office for patient assistance, P.O. Box 376 Sentrum, N-0102 Oslo, tel.: +47 22 00 74 00, [www.pasient.no](http://www.pasient.no)



A list of supervisory commissions can be found at [www.helsedirektoratet.no](http://www.helsedirektoratet.no)

Your local supervisory commission is:



**Helsedirektoratet**

Flere eksemplarer kan bestilles hos trykksak på tlf.: 810 20 050