

**RULES  
OF  
THE TENNESSEE DEPARTMENT OF MENTAL HEALTH  
AND MENTAL RETARDATION  
MENTAL HEALTH SERVICES DIVISION**

**CHAPTER 0940—3—1  
RELEASE FROM INVOLUNTARY HOSPITALIZATION**

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**0940—3—1—.01 SCOPE OF RULES.** This chapter governs the release from involuntary hospitalization of persons committed under *T.C.A. §§ 33—6—104, 33—7—301 (b) and 33—7—303 (c)*. It does not govern release from hospitalization under *T.C.A. §§ 33—6—101, 33—6—103, 33—7—301 (a) and 33—7—303 (a)*.

*Authority:* *T.C.A. §§ 33—1—204 and 33—1—205. Administrative History:* *Original rule filed November 9, 1978; effective December 25, 1978. Repealed by Public Chapter 969; effective July 1, 1984. Amendment filed July 11, 1984; effective August 10, 1984.*

**0940—3—1—.02 PERIODIC EXAMINATION.** The superintendent of a mental health institute shall have each patient examined as often as possible, but at least after ninety days of admission, one hundred eighty days of admission, and there after at six-month intervals from the date of the last examination, to assess the patient's progress and treatment needs.

*Authority:* *T.C.A. §§ 33—1—204 and 33—1—205. Administrative History:* *Original rule filed November 9, 1978; effective December 25, 1978. Amendment filed July 11, 1984; effective August 10, 1984.*

**0940—3—1—.03 RELEASE.** A patient approved for release under Rule 0940—3—1—.06.

- (1) May become a voluntary patient if he
  - (a) applies for admission, and
  - (b) meets the voluntary admission standards under *T.C.A. § 33—6—101*, and
  - (c) all available less drastic alternatives to inpatient treatment are unsuitable to his needs.
- (2) Shall be considered for release to voluntary outpatient treatment, or mandatory outpatient treatment under *T.C.A. §§ 33—6—109 or 33—6—201*.

*Authority:* *T.C.A. §§ 33—1—204 and 33—1—205. Administrative History:* *Original rule filed November 9, 1978; effective December 25, 1978. Repealed by Public Chapter 969; effective July 1, 1984. New rule filed July 11, 1984; effective August 10, 1984.*

**0940—3—1—.04 PRELIMINARY ASSESSMENT.**

- (1) When a number of the patient's treatment team (as set out in patient's chart) finds that any involuntarily committed patient is about to become ready for release, the treatment team and attending licensed physician shall confer. The treatment team shall review the patient's record to assess the patient's readiness for release and any needed follow-up services; if the patient needs further evaluation, they shall perform such evaluation. They shall then present the patient's records, including records of further evaluation of and interviews with the patient to the attending licensed physician for review and recommendation under Rule 0940—3—1—.05.

(Rule 0940-3-1-.04, continued)

- (2) If the patient is a pre-trial defendant, the treatment team shall consider the court-ordered evaluation issues and whether the defendant will return to jail or the community to await trial.
- (3) If the patient has been committed following an acquittal by reason of insanity, the treatment team and attending licensed physician shall consider the circumstances of the crime for which the person was acquitted. They shall then present the patient's record, including records of further evaluations of and interviews with the patient, to another licensed physician for additional review and recommendation under Rule 0940—3—1—.05.

**Authority:** *T.C.A. §§ 33—1—204 and 33—1—205. Administrative History: Original rule filed November 9, 1978; effective December 25, 1978. Repealed by Public Chapter 969; effective July 1, 1984. New rule filed July 11, 1984; effective August 10, 1984.*

**0940—3—1—.05 PHYSICIAN'S RECOMMENDATION.** The attending licensed physician shall review the patient's record and supplementary information provided under Rule 0940—3—1—.04 to assess the patient's readiness for release. A written recommendation with reasons shall then be made to the superintendent for review and decision under Rule 0940—3—1—.06.

When the patient was hospitalized under *T.C.A. § 33—7—303*, both the attending licensed physician and another licensed physician must assess the patient's readiness for release and make recommendations appropriate for review and decision under Rule 0940—3—1—.06.

**Authority:** *T.C.A. §§ 33—1—204 and 33—1—205. Administrative History: Original rule filed November 9, 1978; effective December 25, 1978. Repealed by Public Chapter 969; effective July 1, 1984. New rule filed July 11, 1984; effective August 10, 1984.*

**0940—3—1—.06 SUPERINTENDENT'S DECISION.**

- (1) The superintendent shall review the recommendation of the licensed physician(s) to release or not release the patient and other relevant information. The recommendation of the licensed physician(s) does not bind the superintendent.
- (2)
  - (a) If the superintendent finds that the patient is ready to be released and is not subject to judicial review under *T.C.A. § 33—6—110*, he shall order the patient's release under *T.C.A. §§ 33—6—109 or 33—6—201*.
  - (b) If the superintendent finds that the patient is ready to be released and the patient is subject to release under *T.C.A. § 33—6—110*, the superintendent shall implement the procedures specified in *T.C.A. §§ 33—6—110*.
  - (c) If the superintendent finds that the patient is not ready to be released, he shall so order and direct the patient's continued hospitalization under the authority of his hospitalization.
- (3) Notices:
  - (a) The superintendent shall give notice of release of any involuntarily committed patient to the committing court. In addition, if the patient was hospitalized following an insanity acquittal, before release, the superintendent shall give written notice of his order of release to the patient, the licensed physicians, the district attorney for the committing court, and the director of special services.
  - (b) If the superintendent finds that the patient is not ready to be released, he shall give written notice of his order of continued hospitalization to the patient and the licensed physicians.
- (4) The superintendent's decision is final.

(Rule 0940-3-1-.06, continued)

**Authority:** T.C.A. §§ 33—1—204 and 33—1—205. **Administrative History:** Original rule filed November 9, 1978; effective December 25, 1978. Amendment filed July 11, 1984; effective August 10, 1984.