

DIVISION CIRCULAR 48
(NA)

DEPARTMENT OF HUMAN SERVICES
DIVISION OF DEVELOPMENTAL DISABILITIES

EFFECTIVE DATE: April 30, 2007

DATE ISSUED: April 30, 2007

(This rescinds Division Circular 48, "Discharge from Division Services" issued May 18, 2005.).

- I. **TITLE:** DISCHARGE/RELEASE FROM DIVISION SERVICES
- II. **PURPOSE:** To establish procedures by which a person who is presently receiving services from the Division may be discharged or released from those services.
- III. **SCOPE:** This circular applies to all Division components.
- IV. **POLICIES:**

Individuals shall be discharged from services upon written request from the competent adult or the legal guardian of a minor or incapacitated adult. A written request is not required if the individual is absent from his Division placement for 60 days and he or she cannot be located.

The Division shall review all requests for discharge and may recommend against discharge.

N.J.S.A. 30:4-107.1 which requires a person to be released from services promptly, allows the Division 48 hours notice to prepare for the release.

An individual may not move to another state and request that services be continued from the Division.

When an individual has been determined by the Bureau of Guardianship Services to need a guardian and that person requests discharge from services, the Division may not discharge the individual until the matter has been adjudicated.

When the competent adult or legal guardian of a minor or incapacitated adult no longer requests a Division living arrangement, the individual may continue to receive other services from the Division.

V. GENERAL STANDARDS:

- A. Definitions - For purposes of this circular, the following terms shall have meaning defined herein:
1. Discharge - means the termination by the Division of all responsibilities to a person receiving services. The Division shall retain the right and responsibility to pursue and recover unpaid charges.
 2. Individual Habilitation Plan (IHP) - refer to Division Circular #35.
 3. Interdisciplinary Team (IDT) - refer to Division Circular #35.
 4. Release - means that a person, without a court order, who is receiving residential services in a developmental center, private institution, community residence, etc., is able to leave that service upon written request by the individual or legal guardian. The individual may continue to receive Division services.
- B. Reasons for discharge may include:
1. The competent adult or the legal guardian of a minor or incapacitated adult no longer desires services.
 2. The individual is absent from his Division funded placement or other known placement for more than 60 consecutive days and he or she cannot be located.
 3. The competent adult or legal guardian of a minor has moved with the minor out of the state of New Jersey with the intention of establishing a residence elsewhere.

4. An order of commitment is rescinded or expires.
5. The individual refuses to pay an assessed fee and is terminated in accordance with Division Circular 3 (N.J.A.C. 10:46D).

VI. PROCEDURES:

A. Requests for Discharge

1. Requests for discharge may originate from the competent adult or legal guardian of a minor or incapacitated adult.
2. Requests for discharge shall be directed to the Regional Assistant Director (RAD) where the person is currently being served.
3. Requests for discharge shall be made in writing and shall become part of the client record.
4. The written request shall contain the name of the individual receiving services, the name of the person requesting the discharge, the guardianship status of the individual receiving services and the date discharge is requested. The Division may inquire as to the reason for the request for discharge but will proceed with the discharge even if no reason is given.
5. The RAD shall have the IDT review the request. The RAD shall respond in writing within 30 days unless immediate discharge is requested. When immediate discharge is requested the procedures in Section B. of this circular shall be followed.
 - a. If the request for discharge is recommended by the IDT, the letter shall specify the date of discharge.
 - b. If the request for discharge is not recommended by the IDT, a letter of explanation from the RAD shall be provided. The request may be disapproved only where the RAD believes the individual is in danger of abuse, neglect or exploitation or a danger to others. In such instances, the RAD shall contact the

Administrative Practice Officer to determine possible legal action.

B. Right to Immediate [Discharge] Release

1. When immediate [discharge] release is requested by the competent adult or legal guardian of a minor or incapacitated adult, the individual shall be [discharged] released within 48 hours, unless the matter is referred to the Administrative Practice Officer to determine possible legal action.
2. When the competent adult or legal guardian of a minor or incapacitated adult requests to move from a Division living arrangement, the individual may continue to receive other services from the Division.

C. Commitments

1. When a person is committed to the Division by order of the court and the court order expires, a competent individual may request discharge.
2. If, in the opinion of the IDT, the individual remains dangerous to him or herself or others, a request for further commitment shall be made through the RAD to the Division Director who may consider legal action, per Department rule.

Kenneth W. Ritchey
Assistant Commissioner