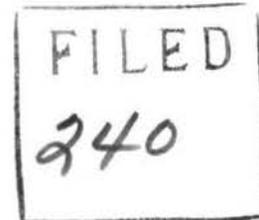


April 9, 1971

Opinion Letter No. 240
Answer by Letter (Klaffenbach)

Honorable George A. Ulett, M.D.
Director
Division of Mental Health
722 Jefferson St. - P.O. Box 687
Jefferson City, Missouri 65101



Dear Dr. Ulett:

This letter is in response to your request for an opinion in which you ask concerning whether a patient who has "eloped" from hospital premises and has since resided in his home community for an extended period of time without violating the law or the accepted rules of social behavior can be discharged by a state hospital superintendent.

You indicate that this situation has arisen in several instances and that such discharges by such superintendents have been questioned on the basis that it was believed that a patient who had left the premises of the institution without permission, should not be discharged. We also understand that you refer to patients who have been involuntarily committed to state mental institutions pursuant to the provisions of Section 202.807, RSMo 1969.

Under Section 202.827, RSMo 1969:

"The head of a hospital as frequently as practicable shall examine or cause to be examined every patient and whenever he determines that the conditions justifying involuntary hospitalization no longer obtain, discharge the patient."

In our view, the fact that a patient left the institution without permission is, in the total picture, a fact that relates to his fitness to be released. It is however, only a factor and there is no legal bar as such prohibiting the release of such a person. If in fact the head of the hospital is of the view that the conditions justifying involuntary hospitalization no longer exist it is his legal duty to discharge the patient.

Honorable George A. Ulett, M.D.

We trust that this answers your question.

Very truly yours,

JOHN C. DANFORTH
Attorney General