WEST VIRGINIA CODE: §27-4-3

§27-4-3. Right to release on application.

A voluntary patient who requests his or her release or whose release is requested in writing by his or her parents, parent, guardian, spouse or adult next of kin shall be released immediately except that:

(a) If the patient was admitted on his or her own application, and request for release is made by a person other than the patient, release shall be conditioned upon the agreement of the patient thereto;

(b) If the patient is under eighteen years of age, his or her release prior to becoming eighteen years of age may be conditioned upon the consent of the person or persons who applied for his or her admission; or

(c) If, within ninety-six hours of the receipt of the request, the chief medical officer of the mental health facility in which the patient is hospitalized files with the clerk of the circuit court or mental hygiene commissioner of the county where the facility is situated an application for involuntary hospitalization as provided in section four, article five of this chapter, release may be postponed for twenty days pending a finding in accordance with the legal proceedings prescribed therein.

Legal proceedings for involuntary hospitalization shall not be commenced with respect to a voluntary patient unless release of the patient has been requested by him or her or the individual or individuals who applied for his or her admission.

WV Legislature