

THE MENTAL HEALTH ACT 2014

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HEALTHY COMMUNITIES AND
WORLD CLASS HEALTHCARE

CARING | PASSIONATE | TRUSTWORTHY

Mental Health Act 2014

- Commenced 1st July 2014.
- Mental Health Act 1986 has been repealed.

Mental Health Act 2014- Principles

- Greater emphasis on recovery & participation.
- Involve patients more in all decisions about assessment, treatment & recovery.
- Allow patients to make decisions about assessment, treatment & recovery that involve a degree of risk.
- Carers should be involved in decisions about assessment, treatment & recovery.

MH ACT 2014- What's new

- Presumption (and definition) of capacity
- Advance statement
- Nominated Person
- Process to become a “compulsory” patient
- Role of Tribunal (replacing MH Review Board)
- Oversight

Capacity

A person has capacity if he/she:

- a) **Understands** the information given
- b) Is able to **remember** the information
- c) Is able to **weigh** the information
- d) Is able to **communicate** their decision

Advance Statements

- Set out a person's preferences in relation to treatment in the event they become a compulsory patient:
 - Can be made at any time
 - Must be in writing
 - Must be signed and dated
 - Must be witnessed by an **authorised witness**

Nominated Person

- Provides patient with support & helps represent the interest of the patient.
- Receives information about the patient
- Must be consulted about patient's treatment
- Assists the patient to exercise any rights that the patient has under the Act.
- Nomination must be in writing and witnessed by an **authorised witness**

Compulsory Treatment orders

The new Mental Health Act will establish compulsory orders comprising:

- An Assessment Order (24/24)
- A Temporary Treatment Order (28-days)
- A Treatment Order (IP- 6/12 or CTO- 12/12)

[MHA 1986

- Request and Recommendation (24/24)
- Involuntary (IP or CTO- 12/12)]

An Assessment Order

Criteria for assessment order:

- I. Person *appears* to have mental illness and
 - II. Person appears to need immediate treatment
- Can be made by *any doctor* or any clinician employed by a Designated Mental Health Service (DMHS)
 - Valid for 24/24

Treatment on an Assessment Order

Can be given treatment:

- If they give informed consent
- If a doctor “employed *or engaged*” by the DMHS believes urgent treatment is needed
- For safe transport- an ambulance paramedic may administer sedation (scope of practice) or at the direction of a doctor
- Duty of care

Temporary Treatment (& Treatment Order) Criteria

- The person *has* a mental illness; and
- Because of the mental illness the person needs immediate treatment
- The immediate treatment will be provided
- There is no less restrictive means available to provide treatment

Temporary Treatment Order

TTO can **only** remain in force for 28 days.

Treatment Order

A Treatment Order is an order made by the new Mental Health Tribunal that enables a person to be treated compulsorily:

- a) in the community (for up to 12/12), or
- b) in a DMHS ($\leq 6/12$)

More Oversight

Mental Health Tribunal will

- Review more patients
- make decisions
 - Treatment orders
 - ECT

Second Psychiatric Opinions

Mental health Complaints Commissioner



“Somehow your medical records got faxed to a complete stranger. He has no idea what’s wrong with you either.”

Mental Health Act 2014

Mental Health Act handbook:

<http://www.health.vic.gov.au/mentalhealth/mhact2014/index.htm>

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