

How does the Mental Health Act assist clinicians?

Supporting recovery-oriented practice

The *Mental Health Act 2014* (the Act) aims to promote patient participation in decisions about assessment, treatment and recovery. The Act will create an environment in which clinicians can develop their knowledge and skills in recovery-oriented practice to promote a stronger therapeutic relationship between patients and clinicians. The Department of Health has developed a Strategic Workforce Action Plan, which identifies the actions required to address the learning and development needs of workforces affected by the Act.

The Victorian Government has provided \$2.85 million to health services to assist with local preparation and implementation of the Act between January–June 2014. This will assist health services to update local systems, policies and procedures, release staff for training and recruit additional staff. In addition, the government will provide new recurrent funding of \$5.84 million from 2014–15 to support health services to meet the new statutory requirements upon commencement.

Compulsory treatment

The authorised psychiatrist remains central to the provision of compulsory treatment. The authorised psychiatrist makes the initial Temporary Treatment Order for persons requiring compulsory treatment and decides the treatment to be provided to the patient.

The Mental Health Tribunal (the Tribunal) must hear and determine whether the treatment criteria apply to the patient within 28 days of the person being made subject to the Temporary Treatment Order. At the hearing the Tribunal will determine whether the Treatment Order is an Inpatient Treatment Order or a Community Treatment Order.

The authorised psychiatrist will be able to vary the setting in which treatment is provided to the patient between community and inpatient in response to fluctuations in the patient's mental health. This will ensure that the patient will always receive treatment in most appropriate setting to enable recovery.

A patient or young person¹ is presumed to have capacity to give informed consent to treatment. Where a patient is unable to give informed consent or does not give informed consent to treatment, the Act authorises the authorised psychiatrist to give treatment without consent.

The Act sets out criteria for determining whether a person has capacity to give informed consent to treatment and principles to assist clinicians to determine whether a person can give informed consent to treatment at the time a decision needs to be made.

¹ A 'young person' is a person under 18 years of age.

Electroconvulsive treatment

A patient with capacity can give informed consent or refuse electroconvulsive treatment (ECT). The authorised psychiatrist will be required to make an application to the Tribunal for approval to perform ECT on a compulsory patient who does not have capacity to consent to ECT or where ECT is being recommended for any young person under 18 years of age.

Shifting the decision about ECT to the Tribunal creates opportunities for treating clinicians to develop a positive treatment relationship with patients and responds to community concerns about the performance of ECT on young people.

Chief Psychiatrist

The Chief Psychiatrist will continue to provide clinical leadership and advice to public mental health services through a redefined role focusing on supporting mental health service providers to improve the quality and safety of the mental health services they provide.

This will be achieved through expert clinical advice informed by clinical audits and reviews and other leadership functions, including clinical guidelines, specialist clinical information, training and education.

Mental Health Complaints Commissioner

The Commissioner will assist health services to improve procedures for resolving complaints and to identify opportunities to improve the quality and safety of health services, informed by patients' experience of treatment and care.

Advocates

Advocates will be funded to provide support and to assist patients to understand and exercise their rights. Advocates will facilitate clearer communication between patients and clinicians resulting in an improved therapeutic relationship and better recovery outcomes.

Increased access to second psychiatric opinions

The Act provides a right for patients to seek a second psychiatric opinion about their treatment at any time. Arrangements are being made so that psychiatrists in both the public and private sectors can provide second psychiatric opinions to enable greater access and choice. The involvement of the private sector will help reduce the burden on health services to provide second psychiatric opinions and will manage concerns that publicly provided opinions are not sufficiently independent.

Clarifying information disclosure

The Act mandates when and to whom patient mental health information *must* be disclosed. The Act also clarifies when patient information *may* be disclosed to carers and family members. This will assist patients, clinicians and carers to better understand their rights and obligations in relation to the disclosure of patient information.

Codes of practice

Codes of practice will provide practical guidance to clinicians exercising powers or performing functions.

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