



# MI Fact Sheet Series

UNDERSTANDING AND MANAGING MENTAL ILLNESS

## The mental health legal framework in the Northern Territory

### Mental Health and Related Services Act 2004

The Mental Health and Related Services Act (2004) is the law that governs the treatment of people with mental illness in hospitals and the community. It aims to protect the rights of people with mental illness or mental disturbance while ensuring that they have access to appropriate care. This care is required to place as little restriction on the rights and liberty of the patient as the circumstances permit. Some important features of this Act are:

- **Voluntary Patients** means the person agrees to be admitted to hospital
- **Involuntary Patients** are admitted only after every effort to avoid the person being admitted as an involuntary patient has been taken. For involuntary admission on the grounds of mental illness to occur the following criteria must be met:
  - the person has a mental illness
  - as a result, the person requires treatment that is available at an approved treatment facility
  - the person is likely to cause imminent harm to himself or herself, a particular person or any other person, or is likely to suffer serious mental or physical deterioration unless he or she receives the treatment
  - the person is not capable of giving informed consent or has unreasonably refused to consent to the treatment
  - there is no less restrictive means of ensuring that the person receives the treatment.

- A person may also be subject to involuntary admission on the grounds of mental disturbance. The criteria are very similar, but mental disturbance is displayed by irrational or abnormally aggressive behaviour that represents a severe impairment of or deviation from a person's usual level of functioning, so much so that his or her conduct justifies a determination that the person requires psychiatric assessment, treatment or care.

### • Principles related to admission, care and treatment of Aborigines and Torres Strait Islanders

When providing treatment and care to a person of Aboriginal or Torres Strait Islander background the following principles apply:

- as far as possible, the person's treatment and care is to be appropriate to and consistent with the person's cultural beliefs, practices and mores, taking into account the views of the person's family and community
- where the person is an Aborigine, the involuntary treatment is, where possible, to be provided in collaboration with an Aboriginal health worker.

- **Informed Consent** occurs where the person with a mental illness provides permission for a specific treatment to occur. For consent to be informed, the person needs information that enables her or him to understand the procedure or treatment, the risks involved, the consequences of not having or agreeing to the treatment and also alternative

treatments. The person must also be deemed well enough to be able to give informed consent. A person who is unable to communicate adequately in English but who is able to communicate adequately in another language is to be assisted, as far as practicable, by a competent interpreter.

- **Community Management Orders** enable involuntary patients to live in the community whilst receiving treatment. An interim order may be made by an authorised psychiatrist and must be reviewed as soon as practicable by the Mental Health Tribunal who can then make a Community Management Order. The Order must be regularly reviewed and the person examined by a psychiatrist at least once every six weeks.
- **Confidentiality and Carer's Rights** Confidentiality generally means that information about a person in treatment is not given to people outside the service agency without that person's permission. Under s10 of the Act, when a person receives treatment and care, as far as practicable, a carer of the person is to be provided with relevant information about the person's rights and entitlements, how they will be met, the grounds for the person's admission, any proposed or alternative treatments and services available.

A carer must, as far as practicable, be consulted and involved in the development of any ongoing treatment plan and any discharge planning for the person.

# The mental health legal framework in the Northern Territory continued...

## Protective bodies

A number of public bodies and appointed individuals protect the rights of people within the mental health system.

### The **Mental Health Review Tribunal**

is a tribunal consisting of a solicitor, a psychiatrist and another suitably qualified member. It has many functions under the Mental Health Act, including regular reviews of all involuntary patients, the hearing of appeals and hearing applications for community treatment orders.

**Community Visitors** are volunteers who visit mental health services to inquire into the adequacy of services and facilities. They investigate complaints from anyone with concerns about standards.

**Chief Health Officer** is the senior Department of Human Services official who has the power to investigate complaints and other matters and take necessary action.

## Useful references

Mental Illness Fellowship of Australia  
[www.mifellowshipaustralia.org.au](http://www.mifellowshipaustralia.org.au)

Mental Illness Fellowship Victoria  
[www.mifellowship.org](http://www.mifellowship.org)

Top End Mental Health Services  
08 8999 4988

East Arnhem region  
08 8987 0400

Katherine region  
08 8973 8722

Darwin rural  
08 8922 8572

NT Arafmi  
Darwin 08 8945 4096  
[www.ntarafmi.org.au](http://www.ntarafmi.org.au)

TEAM Health  
08 8981 4128

Central Australian Mental Health Services  
Alice Springs 08 8951 7710  
Tennant Creek/Barkley District  
08 8962 4399

Life Promotion Team  
08 8952 3311 / 0414 496 052

Mental Health Association  
of Central Australia  
08 8952 3311