



MI Fact Sheet Series

UNDERSTANDING AND MANAGING MENTAL ILLNESS

The mental health legal framework in Western Australia

Mental Health Act (1996)

The Mental Health Act (1996) is the law that governs the care and treatment of people with a mental illness. Key principles are that:

- people are entitled to the best care and treatment with the least restriction of their freedom and the least interference with their rights and dignity
- treatment is to ensure the proper protection of patients as well as the public
- the adverse effects of mental illness on family life are minimized.

Some important features of this Act are:

- **Voluntary Patients** means the person agrees to be admitted to hospital
- **Informed Consent** occurs where the consumer provides permission for a specific treatment to occur. For consent to be informed, the person needs information that enables him or her 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.
- **Involuntary Patients** are admitted to or detained in a hospital against their wishes or are made the subject of a Community Treatment Order. A person can be an involuntary patient only if the following criteria are met:
 - the person has a mental illness requiring treatment

- the treatment can be provided and is required to be provided to protect the health or safety of the person or any other person, or to protect the person from self-inflicted harm (including serious financial harm, lasting or irreparable harm to any important personal relationship, and serious damage to the reputation of the person
- the person has refused treatment, or is unable to consent due to the nature of the mental illness
- the treatment cannot be adequately provided in a way that would involve less restriction of the freedom of choice and movement of the person than would result from the person being an involuntary patient.

- **Community Treatment Orders (CTOs)**

enable some involuntary patients to live in the community while receiving treatment. A psychiatrist can make a CTO, but it needs to be confirmed by another psychiatrist or authorised medical practitioner within 72 hrs and then reviewed by the Mental Health Review Board not later than eight weeks after the order is made.

A CTO must specify a psychiatrist who will supervise the administration of the order, a treatment plan, including when and where treatment will be given, a mental health practitioner or medical practitioner who will give the treatment, and the lapse date of the order (no more than three months unless extended).

- **Confidentiality** generally means that information about a patient is not given to people outside the service agency without the patient's permission. However exceptions in s160 of the Act allow the person to nominate a suitably qualified person to exercise the right given by the section, and the person nominated is to be permitted to exercise the right to inspect, and be given a reproduction of, the documents relating to the person accordingly.

Under s156, a nominated other person, or a person assuming responsibility for the care of the person, is to be given a copy of the rights and entitlements of the person in treatment.

Under s205 of the Act, a person may seek information about admission to or detention of a person in an authorized hospital. If the Chief Psychiatrist believes the person has a proper interest in the matter, then information is to be given including, where applicable, date of admission, discharge, release or death.

Protective Bodies

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

The **Mental Health Review Board** reviews involuntary and community treatment order patients.

The State Administrative Tribunal hears appeals from patients with involuntary status.

The mental health legal framework in Western Australia continued...

The Chief Psychiatrist has responsibility for the medical care and welfare of all involuntary patients, monitors the standards of psychiatric care for all patients throughout the state and has the power to investigate complaints and other matters and take necessary action.

The Council of Official Visitors provides an independent advocacy service for people who are currently being treated under the Mental Health Act 1996 and/or who are living in licensed private psychiatric hostels.

The Office of the Public Advocate provides advice on, assists with, and takes appropriate action regarding complaints about services.

Useful references

Mental Health Law Centre
08 9328 8266
www.mhlcwa.org.au

Office of Public Advocate
www.justice.wa.gov.au

Mental Health Review Board
www.mhrbwa.org.au

Council of Official Visitors
www.coov.org

Chief Psychiatrist
08 9222 4462

Mental Illness Fellowship of WA Inc
08 9228 0200
Email mifwa@bigpond.com

Schizophrenia Fellowship
Albany and Districts Inc
08 9842 2204

Mental Illness Fellowship of Australia
www.mifellowshipaustralia.org.au

Mental Illness Fellowship Victoria
www.mifellowship.org



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