

TASMANIA'S MENTAL HEALTH ACT

Mental Health, Alcohol and Drug Directorate
Department of Health and Human Services

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Outline

- What treatment does the Act regulate?
- When may treatment be given
- Treatment with informed consent
- Who may give informed consent
- Urgent circumstances treatment
- Treatment Plans
- Treatment under a Treatment Order
- Treatment setting
- Failure to comply with a Treatment Order
- Admission to prevent possible harm
- Treatment for forensic patients
- Special psychiatric treatment
- Questions?

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What treatment does the Act regulate?

- The Act regulates treatment as defined in section 6 of the Act.
- Treatment is defined in section 6 as the professional intervention necessary to:
 - Prevent or remedy mental illness, or
 - Manage and alleviate, where possible, the ill effects of mental illness, or
 - Reduce the risks that persons with mental illness may, on that account, pose to themselves or others, or
 - Monitor or evaluate a person's mental state
- The Act also regulates special psychiatric treatment
- It does NOT regulate general health care, terminations of pregnancy, procedures that could render a person infertile, or the removal of human tissue for purposes of transplantation

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When may treatment be given

A patient may be given treatment:

- With informed consent – this may be given by a parent, if the patient is an immature minor
- If the treatment is authorized by a Treatment Order or by the Tribunal a member of the Tribunal
- If the treatment is authorised as being urgently needed in the patient's best interests (urgent circumstances treatment)

A person may be given special psychiatric treatment with Tribunal authorisation. Informed consent may also be required

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Treatment with informed consent

A medical practitioner may regard a person's consent to assessment or treatment as being informed if he or she is satisfied that:

- The person has decision making capacity at the time of giving the consent, and
- The person has had a reasonable opportunity to make a considered decision about whether or not to give consent
- The person has given consent freely by some positive means – the consent must be given without coercion, pressure or undue influence

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Who may give informed consent

- Informed consent may be given by:
 - An adult with decision making capacity about his or her own assessment or treatment
 - A child with decision making capacity about his or her own assessment or treatment
 - A parent of a child who does not have decision making capacity about his or her own assessment or treatment
- Informed consent may be withdrawn by the person who gave it
- If the patient is a child, the consent of all parents to withdrawal of consent is required

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Urgent circumstances treatment slide 1

- A patient may be given urgent circumstances treatment without informed consent or Tribunal authorisation if an approved medical practitioner authorises the treatment as being urgently needed in the patient's best interests
- Treatment may only be authorised if the practitioner is of the opinion that achieving the necessary treatment outcome would be compromised by waiting for the urgent circumstances treatment to be authorised by the Tribunal, or by a member of the Tribunal on an interim basis
- Urgent circumstances treatment may be authorised for patients on Assessment Orders and Treatment Orders
- Urgent circumstances treatment may also be authorised for forensic patients

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Urgent circumstances treatment slide 2

An approved medical practitioner may only authorise urgent circumstances treatment if he or she has concluded, from an examination, that:

- The patient has a mental illness that is generally in need of treatment
- The urgent circumstances treatment is necessary for the patient's health or safety or the safety of others
- The urgent circumstances treatment is likely to be effective and appropriate to achieve treatment outcomes
- Achieving the necessary treatment outcome would be compromised by waiting for the treatment to be authorised by the Tribunal or by a member of the Tribunal on an interim basis

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Urgent circumstances treatment slide 3

An approved medical practitioner who authorises urgent circumstances treatment must:

- Ensure that the patient is advised of the authorisation
- Confirm the authorisation in writing and give a copy of the authorisation to the patient, the Chief Civil Psychiatrist and the Tribunal
- Place a copy of the authorisation on the patient's clinical record
- Give the patient a statement of rights

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Urgent circumstances treatment slide 4

Once authorised, urgent circumstances treatment may be given until whichever of the first occurs first:

- The treatment is completed
- An approved medical practitioner stops the treatment (this may be for any reason)
- 96 hours after the authorisation is given
- The Assessment Order, Treatment Order or interim Treatment Order ceases or is discharged
- The Tribunal sets the authorisation aside

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Treatment Plans

- A treatment plan is a document that outlines the treatment that an involuntary patient is to receive
- Each involuntary patient is required to have a treatment plan
- A treatment plan may be prepared by any medical practitioner involved in the patient's treatment or care
- Consultation must occur with the patient
- Consultation may also occur with other people, as the medical practitioner thinks fit in the circumstances
- Treatment plans may be varied at any time

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Treatment under a Treatment Order

- A Treatment Order is authority for an involuntary patient to be given the treatment, or type of treatment, specified in the Order, without the patient's informed consent
- The Mental Health Tribunal may vary the treatment, or type of treatment, specified in the Order
- The Tribunal may vary a Treatment Order at any time on its own motion, or on the application of any approved medical practitioner or person with the necessary standing, including the patient
- The Tribunal may vary a Treatment Order whether or not it has conducted a review

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Treatment setting

- A Treatment Order may include a requirement that a treatment setting for a patient be an approved facility, or a premises or place, or type of approved facility or premises or place, specified in the Order
- A Treatment Order may also provide for a combination of treatment settings and for the admission, and readmission of the patient to those settings
- A patient subject to a Treatment Order may be admitted to and, if necessary, detained in an approved facility, or type of approved facility, for the purposes of receiving treatment, if this is permitted by the Order

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Treatment setting (cont.)

- A patient subject to a Treatment Order may be admitted to and, if necessary, detained in an approved facility (other than a secure mental health unit) if the patient has failed to comply with the Order under section 47
- A patient subject to a Treatment Order may also be admitted to, and if necessary, detained in an approved facility if the patient requires admission to prevent possible harm under section 47A of the Act despite the patient's compliance with the Order

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Failure to comply with a Treatment Order

- A patient's treating medical practitioner may seek to have the patient who is subject to a Treatment Order admitted to, and if necessary, detained in an approved facility if section 47 of the Act applies
- Section 47 of the Act applies if:
 - Reasonable steps have been taken to obtain the patient's compliance with the Order, and
 - The treating medical practitioner is satisfied on reasonable grounds that, despite the steps that have been taken to obtain the patient's compliance, the patient has failed to comply with the Order; and
 - The failure in compliance has seriously harmed, or is likely to seriously harm, the patient's health or safety or the safety of other people; and
 - The harm or likely harm cannot be addressed except by way of an alternative treatment setting

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Admission to prevent possible harm

- A patient's treating medical practitioner may seek to have the patient who is subject to a Treatment Order taken under escort and involuntarily admitted to, and detained in, an approved facility if section 47A of the Act applies
- Section 47A of the Act applies if:
 - The patient's Treatment Order provides for a combination of treatment settings and for the admission and re-admission of the patient to those settings, and
 - The patient has complied with the Treatment Order, and
 - The treating medical practitioner is satisfied on reasonable grounds that, despite the patient's compliance, the patient's safety or the safety of others has been, or is likely to be, seriously harmed, and
 - The harm, or likely harm cannot be adequately addressed except by way of the patient's admission or readmission to, and if necessary, detention in an approved hospital

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Treatment for forensic patients

The Tribunal may authorise treatment for a forensic patient on application of an approved medical practitioner if satisfied that:

- The patient has a mental illness, and
- Without treatment, the mental illness will, or is likely to, seriously harm the patient's health or safety or the safety of others, and
- The treatment will be appropriate and effective in terms of the treatment outcomes referred to in the meaning of treatment set out in the Act, and
- The patient does not have decision making capacity

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Treatment for forensic patients (cont.)

- A single member of the Tribunal may authorise treatment on an interim basis without conducting a hearing
- Interim authorisation lasts for up to 14 days
- The Tribunal's authorisation has effect according to its terms, and may be subject to conditions around time, method, supervision or other matters
- The Tribunal is required to give copy of the authorisation to the patient, the approved medical practitioner who applied for the authorisation and the Chief Forensic Psychiatrist
- The Tribunal must also give the patient a statement of rights

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Special psychiatric treatment

- A person may only be given special psychiatric treatment if the treatment has been authorised, beforehand and in writing, by the Tribunal, and if the patient gives informed consent
- Currently, applies only to psychosurgery
- The Tribunal may only authorise the treatment if an approved medical practitioner, a Chief Psychiatrist and an independent expert agree that the treatment should be given
- The Tribunal may only authorise special psychiatric treatment at a hearing before three members and there must be unanimous agreement between the members

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Questions

Any questions?

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