Seclusion and Restraint

TASMANIA'S MENTAL HEALTH ACT

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

Chief Psychiatrist Approved

Tasmania
Explore true possibilities

Outline

- Overview
- The Act's objects and principles
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Overview

- The *Mental Health Act 2013* regulates the involuntary assessment and treatment of people with mental illness
- The Act provides for protective custody, Assessment Orders, Treatment Orders and urgent circumstances treatment; regulates seclusion and restraint; and establishes the statutory offices of Chief Civil Psychiatrist and Chief Forensic Psychiatrist
- The Act also establishes Official Visitors and the Mental Health Tribunal and provides the Tribunal with a range of powers and functions
- The Act is consumer centred and recognises that competent adults have the right to make their own decisions about assessment and treatment. It requires decisions which infringe a person's rights to be independently oversighted; and provides consumers with specific rights

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The Act's Objects

The Act should be interpreted and utilised in accordance with its objects.

The Act's objects are set out in section 12 and include:

- To provide for appropriate oversight and safeguards in relation to the assessment and treatment of people with mental illnesses
- To give everyone involved with the assessment and treatment of people with mental illnesses clear direction as to their rights and responsibilities
- To provide for the assessment and treatment of people with mental illness to be given in the least restrictive setting consistent with clinical need, legal and judicial constraints, public safety and patient health, safety and welfare
- To promote voluntary over involuntary assessment and treatment and the making of free and informed assessment and treatment choices

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The Act's Principles

People exercising responsibilities under the Act are also required to have regard to the mental health service delivery principles.

The principles are out in Schedule 1 and include:

- To respect, observe and promote the inherent rights, dignity, autonomy and self-respect of people with mental illness
- To interfere with or restrict the rights of people with mental illness in the least restrictive way and to the least extent consistent with the protection of the person, the protection of the public and the proper delivery of the relevant service
- To recognise the difficulty, importance and value of the role played by families, and support persons, of people with mental illness
- To promote the ability of people with mental illness to make their own choices and to involve people receiving services, and where appropriate their families and support people, in decision making

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Seclusion

- Seclusion is the deliberate confinement of an involuntary patient or forensic patient, alone, in a room or area that the patient cannot freely exit
- This includes isolating a patient in a room or area that the patient believes that they cannot leave; and may extend to a patient's isolation in a suite of rooms or a courtyard
- Under the *Mental Health Act 2013,* a person may only be secluded if they are an involuntary patient within an approved hospital, or a forensic patient within a secure mental health unit

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Restraint

- The *Mental Health Act 2013* regulates the use of physical restraint, mechanical restraint and chemical restraint
- Physical restraint is bodily force that controls a person's freedom of movement
- Mechanical restraint is a device that controls a person's freedom of movement
- Chemical restraint is medication given primarily to control a person's behaviour, not to treat a mental illness or physical condition
- Under the *Mental Health Act 2013,* a person may only be physically restrained, mechanically restrained or chemically restrained if they are an involuntary patient within an approved hospital or approved assessment centre, or a forensic patient within a secure mental health unit

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Restraint – emergency, short term

- The Act does not regulate - nor does it prevent - the emergency short term physical restraint of a patient, subject to and in accordance with relevant Chief Psychiatrist standing orders or clinical guidelines, which is needed:
  - To prevent the patient from harming himself or herself or others, or
  - To prevent the patient from damaging, or interfering with the operation of, a facility or any equipment, or
  - To break up a dispute or affray involving the patient, or
  - To ensure, if the patient is uncooperative, the patient's movement to or attendance at any place for any lawful purpose
- Restraint of this kind is to be managed in accordance with the approved facility's usual policies and procedures

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Authorisation - prescribed reasons

An involuntary or forensic patient may only be restrained (R) or secluded (S) if the restraint or seclusion is authorised as being necessary for a prescribed reason. These are:

Reasons	Involuntary		Forensic	
	R	S	R	S
To facilitate the patient's treatment	√	√	√	√
To ensure the patient's health or safety or the safety of other people	√	√	√	√
To provide for the management, good order or security of an approved hospital		√	√	√
To effect the patient's transfer to or from an approved facility	√		√	√
To facilitate the patient's general health care			√	√
To prevent the patient from destroying or damaging property			√	√
To prevent the patient's escape from lawful custody			√	√
For a reason sanctioned by Chief Forensic Psychiatrist Standing Orders			√	√

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Authorisation – reasonable intervention

Seclusion or restraint may only be authorised:

- If the person authorising the seclusion or restraint is satisfied that the seclusion or restraint is a reasonable intervention in the circumstances
- After less restrictive interventions and de-escalation techniques have been tried without success, or when these have been considered but excluded as inappropriate or unsuitable in the circumstances
- Following a risk assessment and after taking into account matters such as:
  - Whether de-escalation has been implemented
  - Whether "time out" or 1:1 nursing have been attempted
  - Whether "pro re nata" (PRN or "as needed") medication has been offered
  - How long the seclusion or restraint is expected to last for and the criteria that will be used to determine whether the seclusion or restraint should cease
  - The patient's post-seclusion or post-restraint plan

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Authorisation – seclusion

Seclusion of an involuntary patient may be authorised by:

- If the patient is a child – the Chief Civil Psychiatrist or delegate
- If the patient is an adult – the Chief Civil Psychiatrist or a delegate, a medical practitioner or an approved nurse

Seclusion of a forensic patient may be authorised by:

- If the patient is a child – the Chief Forensic Psychiatrist or delegate
- If the patient is an adult – the Chief Forensic Psychiatrist or a delegate, a medical practitioner or an approved nurse

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Authorisation – chemical or mechanical restraint

- Chemical or mechanical restraint of an involuntary patient may be authorised by the Chief Civil Psychiatrist or a delegate
- Chemical or mechanical restraint of a forensic patient may be authorised by the Chief Forensic Psychiatrist or a delegate
- The means of mechanical restraint employed in the specific case must be approved in advance by the relevant Chief Psychiatrist

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Authorisation – physical restraint

Physical restraint of an involuntary patient may be authorised by:

- If the patient is a child – the Chief Civil Psychiatrist or delegate
- If the patient is an adult - the Chief Civil Psychiatrist or a delegate, a medical practitioner or an approved nurse

Physical restraint of a forensic patient may be authorised by:

- If the patient is a child – the Chief Forensic Psychiatrist or delegate
- If the patient is an adult - the Chief Forensic Psychiatrist or a delegate, a medical practitioner or an approved nurse

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Authorisation – in person or over the phone

- Seclusion or restraint may be authorised in person, over the phone or by email
- Authorisation may only be given over the phone or by email if:
  - The person authorising the seclusion or restraint is satisfied, from the information given to him or her by members of nursing staff who are at the approved facility with the patient, that the patient meets the criteria to be secluded or restrained, and
  - There is nobody else at the approved facility who could authorise the patient's seclusion or restraint in person, and within a timeframe that is appropriate in the circumstances

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Duration

- A patient may be secluded or placed under restraint if, and only if, the seclusion or restraint lasts for no longer than the period authorised
- Despite the period of seclusion or restraint that is authorised or extended, a patient's seclusion or restraint must not be allowed to continue where this would be detrimental to the patient's mental or physical health
- A patient's seclusion or restraint must be ended as soon as it is no longer considered to be necessary

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Duration – seclusion

- Seclusion may be authorised for an initial period of up to three (3) hours
- However, the Chief Civil Psychiatrist (or delegate)'s approval is required for seclusion that has been authorised to maintain order in, and the security of, an approved hospital, for a period of more than 30 minutes
- Seclusion may also be extended for one or more additional periods of up to three (3) hours each
- Each extension must be approved by the Chief Civil Psychiatrist (for involuntary patients) or Chief Forensic Psychiatrist (for forensic patients) or their delegates

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Duration – restraint

- Physical and chemical restraint may be authorised for an initial period of up to three (3) hours
- Physical and chemical restraint may also be extended for one or more additional periods of up to three (3) hours
- Each extension must be approved by the Chief Civil Psychiatrist (for involuntary patients) or Chief Forensic Psychiatrist (for forensic patients) or their delegates and may be subject to conditions
- Mechanical restraint may be authorised for an initial period of:
  - Up to three (3) hours, if the restraint is authorised to facilitate the patient's treatment or ensure the patient's health or safety or the safety of others
  - Up to seven (7) hours, if the restraint is authorised to transport a patient from one approved facility to another

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Observation and examination

- Patients who are secluded must be:
  - Clinically observed by a member of the facility's nursing staff at least every 15 minutes
  - Examined by a medical practitioner or approved nurse at least every four (4) hours
  - Examined by an approved medical practitioner at least every 12 hours
- The purpose of the examination is to see if the seclusion or restraint should continue, or be terminated
- Children and vulnerable patients who are secluded must be continually observed at all times while in seclusion
- Patients who are restrained (whether mechanically, physically or chemically) must be continually observed at all times by a registered nurse or medical practitioner

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Obligations

- Patients who are secluded or restrained, regardless of the duration must be provided with:
  - Suitable clean clothing and bedding
  - Adequate sustenance, toilet and sanitary arrangements, and ventilation and light
  - A means of summoning aid
- Patients who secluded or restrained also must not be deprived of physical aids, or communication aids that the patient uses in communicating on a daily basis, except as may be strictly necessary for the patient's safety or the preservation of the aid for the patient's future use
- The administration of prescribed medications must not be unreasonably denied or delayed

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Useful Resources

The *Mental Health Act 2013* can be accessed at Tasmanian Legislation Online

A range of useful information about the Act is available to read, download and print from the Mental Health Act website including:

- Approved Forms
- Flowcharts
- Standing Orders and Clinical Guidelines
- Online Training Packages and other Education Resources
- A Clinician's Guide to the *Mental Health Act 2013*
- Fact Sheets and other Information for Consumers
- Statements of Rights

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Questions

Any questions?

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