

TASMANIA'S MENTAL HEALTH ACT

Rights, Respect, Recovery

Amendments to the *Mental Health Act 2013* – overview for clinicians

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The *Mental Health Act 2013* has been amended to streamline processes for having people with mental illness involuntarily assessed, and treated. These changes come into effect on 1 July 2017 and are outlined below.

All Chief Civil Psychiatrist (CCP) and Chief Forensic Psychiatrist (CFP) approved forms, standing orders, clinical guidelines and training packages have been updated to reflect the changes and will be available at

http://www.dhhs.tas.gov.au/mentalhealth/mental_health_act/mental_health_act_2013_new_mental_health_act/forms

Updated Mental Health Tribunal forms and relevant information will be available at

http://www.mentalhealthtribunal.tas.gov.au/forms_listing

Assessment Orders

Applying for an Assessment Order (section 23)

- An application for an assessment order can now be made orally or in writing.
- The applicant still has to be satisfied that the prospective patient has or might have a mental illness and that a reasonable attempt to have the prospective patient assessed with informed consent has failed or that it would be futile or inappropriate to make such an attempt.
- **CCP Form 5 – Application for Assessment Order - is no longer required.**

Making an Assessment Order (section 24)

- A medical practitioner no longer has to be in possession of an application to make an assessment order.
- When making an assessment order a medical practitioner must:
 - Have examined the patient in the 24 hour period before making the order, and
 - Be satisfied from the examination that the person needs to be assessed against the assessment criteria, and
 - Be satisfied that a reasonable attempt to have the person assessed, with informed consent, has failed or that it would be futile or inappropriate to make such an attempt.
- **CCP Form 6 – Assessment Order – must still be completed.**

Discharging an Assessment Order (section 35)

- A medical practitioner can now discharge an assessment order only if he or she has either:
 - Examined the patient and is satisfied from the examination that the patient does not meet the assessment criteria, or
 - Not examined the patient but is satisfied on other reasonable grounds that the patient does not meet the assessment criteria.
- **CP Form 6 – Assessment Order – must still be completed.**

Urgent Circumstances Treatment (sections 55 and 87)

- An Approved Medical Practitioner (AMP) can now authorise urgent circumstances treatment if the practitioner has concluded, from an examination of the patient, that the patient meets certain criteria, as outlined in the *Mental Health Act 2013*.
- The AMP doesn't need to have received an application for urgent circumstances treatment and a separate examination by another AMP is not required.
- The AMP also does not need to be a delegate of the Chief Civil Psychiatrist or the Chief Civil Psychiatrist.
- **CCP and CFP Form 8 – Urgent Circumstances Treatment - must still be completed.**

Treatment Plans

- A treatment plan is no longer required to be provided to the Tribunal as part of the application for a treatment order.
- A medical practitioner is no longer required to give a copy of documentation varying a treatment plan to the Tribunal.
- **CP Form 7 – Treatment Plan – still needs to be completed for every involuntary patient.** This is to satisfy the requirements of the Act for every involuntary patient to have a Treatment Plan and for the Plan to be in a Chief Civil Psychiatrist approved form.

Treatment Orders

- The Tribunal can now make treatment orders which provide for a combination of treatment settings and for a patient's admission and re-admission to those settings (sections 38 and 39).
- People on a treatment order which provides for a combination of treatment settings and for a patient's admission and re-admission to those settings can now be admitted, or readmitted, to an approved hospital to prevent possible harm (section 47A).
- Please note this is different from re-admission of a patient to hospital for failure to comply with a treatment order. Processes for readmission to hospital for people who fail to comply with the requirements of a treatment order have not changed.
- The circumstances in which a person may be admitted, or readmitted, to an approved hospital to prevent possible harm are as follows:

- The person must be subject to a treatment order that provides for a combination of treatment settings and for the admission and re-admission of the person to those settings; and
- The treating medical practitioner must be satisfied on reasonable grounds that –
 - (i) despite the person’s compliance with the Treatment Order, the person’s health or safety or the safety of any other person has been, or is likely to be, seriously harmed; and
 - (ii) the harm, or likely harm, cannot be adequately addressed except by way of the person’s admission or re-admission to and, if necessary, detention in an approved hospital.
- **A new form - CP Form 23 – Admission to prevent possible harm for a patient on a multi-setting treatment order – must be completed to admit, or readmit a patient to hospital to prevent possible harm.** It will no longer be necessary to invoke Protective Custody or to make an Assessment Order.
- **CP Form 22 – Failure to comply admission to hospital – still needs to be completed to readmit a patient to hospital for failure to comply with a treatment order.**

Review of Treatment Orders

- The mandatory review timeframes for treatment orders have changed.
- The Tribunal must now review a treatment order within 60 days (previously 30 days) of it being made and at 180 day (previously 90 day) intervals thereafter.
- A person who is subject to a treatment order can ask the Tribunal to review the Order at any time.

Review of Authorisation of Treatment for Forensic Patients (section 192A)

- A new section 192A has been inserted into the *Mental Health Act 2013*.
- This regulates the review by the Tribunal of the authorisation of treatment for forensic patients.
- Under this section the Tribunal is required to review the authorisation of treatment for a forensic patient within 60 days and 180 days thereafter.
- This is consistent with the review times frames applying to involuntary patients under section 181.
- A forensic patient can ask the Tribunal to review the authorisation at any time.

Leave of absence for Forensic Patients (extension, variation and cancellation) (sections 79 and 83)

- Eligible persons must be contacted and provided with an opportunity to make a submission in relation to an extension, variation or cancellation of leave of forensic patients.
- **CFP Forms 12A (forensic patient leave application), 12B (forensic patient leave granted/refused) and 12C (cancellation of forensic patient leave) must still be completed.**

Transfer of involuntary patients between hospitals

- In an emergency a verbal transfer direction can now be made.
- The verbal direction needs to be confirmed in writing as soon as practicable by completing **CCP Form 13 – Involuntary patient transfer between approved hospitals.**

Escorting a person to hospital (including involuntary and forensic patients)

- **A new CCP and CFP Form 24 – Escorting a person to hospital - has been developed to cover all circumstances for a person's escort to hospital.** This includes escorting a person for assessment or treatment, when the person's admission is necessary due to failure to comply with treatment order, a person's admission to prevent possible harm, absconding and failure to comply with conditions of leave.
- **CCP Form 24 must be completed when a person (including involuntary and forensic patients) is escorted to hospital.**
- **CCP Form 24 replaces the escort provisions in CCP Forms: 12C, 13B, 14 A, 14B, 19E and 22B.**
- **CFP Form 24 replaces the escort provisions in CFP Forms: 12C, 17B and 19E.**
- Please note that Form 24 does not replace CCP Form 4 – Protective Custody. CCP Form 4 still needs to be completed when a person is taken into protective custody.

Giving documents to involuntary and forensic patients and others

- A new section 226 has been added to the *Mental Health Act 2013*. This section regulates the giving of documents and notices to patients and others. It outlines how and by whom particular notices/documents are to be provided to patients and others.
- In particular it clarifies that:
 - Documentation must be given (physically handed) directly to involuntary and forensic patients who are being detained in an approved facility under an assessment order or treatment order, and to voluntary inpatients
 - Documentation can be posted, faxed or emailed to patients on assessment orders or treatment orders that operate in the community, or left at or posted to the person's postal or residential address or place of employment
 - Documentation can be posted, faxed or emailed to other people, including patient representatives and support people, or left at or posted to the person's postal or residential address or place of employment
- All CCP and CFP forms, standing orders and clinical guidelines have been updated to reflect the inclusion of this new section in the Act