

CTO Guidelines

Final Version 1.1

26 September 2005

To replace: Chapter Seven of the *Guide to the New Mental Health Act 1996*

Website: www.dhhs.tas.gov.au/agency/pro/mentalhealthact/index.php

Community Treatment Orders

The principle of only doing what is necessary in the circumstances should always be followed. If a person will not voluntarily agree to treatment then, in order to prevent that person's health from deteriorating, a community treatment order may be considered.

Community treatment orders enable involuntary patients to be treated in the community. This reflects one of the objects of the legislation (Section 6(j): to encourage the care and treatment of persons with a mental illness in the community). It also supports the principle of the least interference with the person's civil rights and is a less restrictive option than involuntary hospitalisation. A person may be placed on a community treatment order as an alternative to hospital admission or when hospital admission is no longer required to treat the person's illness. It allows intervention before deterioration in a person's mental health becomes evident and is designed to prevent a person's health deteriorating so badly that an initial order becomes necessary.

The Tasmanian Parliament has recently passed an amendment to the Mental Health Act 1996 which enables a person who has breached a community treatment order to be temporarily admitted to an approved hospital for up to 14 days.

Least restrictive alternative (Section 24)

The principle of the least restrictive alternative is one of the principles guiding the delivery of health care for people with a mental illness as established in the *National Standards for Mental Health Care*. A consistent theme in cases that have been heard by courts in other States is whether a community treatment order is actually the least restrictive alternative. It is therefore always necessary to consider whether an order is actually necessary for the particular person, and whether social and mental health service support are sufficient to ensure the continued health of the person.

This chapter describes the effect of the community treatment order and explains the revised procedures which must be followed to make, monitor, enforce or discharge an order. It explains the ultimate sanction of temporary admission to hospital if the patient continues to be non compliant with the order, with the rationale that early intervention will prevent deterioration in their mental health.

The Act specifies the test which must be applied before a person can be placed on a community treatment order. This definition varies slightly from the test used for

involuntary hospitalisation under a Continuing Care Order (described in Chapter 4 above) and is discussed below under the heading ‘The steps to a community treatment order’ at step 2.

The effect of a community treatment order

A community treatment order can, among other things, require the person to submit to medical treatment or attend appointments at a nominated treatment centre at specified intervals. However a community treatment order is still subject to the consent to medical treatment provisions in the *Guardianship and Administration Act 1995*, if the person does not consent to the treatment. For a community treatment order to be effective, the person must be able to be maintained in the community, with appropriate support from mental health services and/or the person’s caregiver, including the his/her GP or non government sector support worker.

If the person is admitted to hospital as an involuntary patient for less than 3 months while on a community treatment order, the community treatment order is suspended during the period of admission and becomes effective again on the discharge of the person. If the admission is for a period of more than three months, the order lapses and if the criteria are satisfied another order would need to be made.

If a patient subject to a CTO refuses or fails to take their medication, an approved medical practitioner may authorise the person to be temporarily admitted to an approved hospital for up to 14 days.

1. To make a community treatment order

To make a community treatment order (CTO) the following steps must be followed in order.

1.1 Application for CTO completed by the person responsible or authorised officer

An application for a community treatment order must be completed by the person responsible or authorised officer. An application is not necessary if the person is already in hospital on an initial order (as making a CTO is an alternative to a CCO at that stage) or continuing care order (as making a CTO may be an appropriate step down from involuntary hospitalisation)

As with initial orders and continuing care orders, there is no requirement that the person responsible must be the person who completes the application. An authorised officer may complete an application instead of the person responsible.

1.2 Assessment by two approved medical practitioners

A community treatment order is made on assessment by two approved medical practitioners, and agreement on the terms of the order.

To make a community treatment order the person must have been separately assessed by two approved medical practitioners. These assessments must be carried out within seven days prior to the making of the order.

The two approved medical practitioners must both be satisfied that

- the person has a mental illness
- there is, in consequence, a significant risk of harm to the person or others unless the mental illness is treated (the risk of harm may be a serious deterioration in the person's physical or mental health)
- the order is necessary to ensure that the illness is properly treated
- facilities or services are available for the monitoring, care and treatment of the person.

The two approved medical practitioners must sign the order.

1.3 Terms and content of the community treatment order

In determining the terms of the order, the approved medical practitioners should be aware that any conditions imposed must only be those that are necessary to address the treatment of the person's mental illness and to protect the person or other people. If the medical practitioners decide that limitations are needed on where the person lives, or for the management of their finances, a guardianship and/or administration order may also be necessary.

The community treatment order must state all conditions with which the patient is required to comply clearly and concisely. The conditions imposed must be fair and able to be complied with practically.

The community treatment order (Form 4) must specify the length of time the person is to be subject to the order. The maximum period of a CTO is 12 months.

A community treatment order may require the person to

- take a particular medication (but should not be too precise to allow for future adjustments necessary for the person's continuing good health)
- submit to the administration of a particular medical treatment
- take or submit to medical treatment as decided from time to time by a medical practitioner practising at a specified treatment centre, as well as decided by a medical practitioner named in the order
- attend a treatment centre as directed from time to time by a medical practitioner specified in the CTO or a medical practitioner practising at a specified treatment centre
- comply with other reasonable requirements specified in the order or requirements made from time to time by a person specified in the CTO.

The approved medical practitioner must explain the conditions to the person and check that the person is able to comply with them practically.

Copies of the CTO are to be given to

- The person

- The person responsible (if there is one)

And sent within 48 hours to

- The person's case manager
- The person's treating medical practitioner
- The person's usual general practitioner
- The Mental Health Tribunal (with Form 9)

The Tribunal will monitor the use of CTOs and may provide guidance on the extent and scope of conditions applied.

1.3 Statement of legal rights given and explained to patient and person responsible.

The person and person responsible (if there is one) must be given a statement of legal rights.

The person's rights must be explained in a way that makes them understandable. This means that the person should have an explanation of these rights given to them, and that this explanation should be given by an interpreter if this is necessary (for more information see Chapter 11).

1.4 Person and person responsible given a statement of the person's condition, treatment plan, review rights, and CTO system.

The person is given a statement of their diagnosis, treatment plan, the CTO system and of their right to have the order reviewed by the Mental Health Tribunal.

The statement of treatment and diagnosis can only be given to the person once this had been determined. This statement must also be explained in a way that is, as far as possible, understandable to the person. Information can be withheld from this statement if the medical practitioner in charge of the person's treatment thinks that the information will have a negative effect on their treatment. If information is withheld, the Mental Health Tribunal must be notified within 48 hours (on Form 9).

1.5 Notify the Tribunal, case manager and treating medical practitioner within 48 hours

The Mental Health Tribunal must be notified within 48 hours of the person being placed on the order (Form 9)

Form 9 is to be completed and may be faxed to the Mental Health Tribunal on (03) 6233 4509. A copy of the CTO must accompany the form. The Mental Health Tribunal will automatically review the order within 28 days of the order being made (for more information, see Chapter 8).

A copy of the CTO must also be sent to the treating medical practitioner, the person's usual general practitioner and the case manager within 48 hours.

2. Monitoring compliance with a community treatment order

One of the objects of the Mental Health Act is to ensure that all practicable measures are taken to prevent mental illness or to arrest or impede its progress at an early state (Section 6 (g)).

Under the principle of minimum interference with a person's civil rights (Section 7)

- restrictions on the liberty of the patient and interference with the patient's rights, dignity and self respect must be kept to the minimum, consistent with the need to protect the patients and others
- effect must, if practicable, be given to the patient's wishes so far as that is consistent with
 - (a) the patient's best interests, and
 - (b) the need to protect the patient and others.

Therefore if the person is unwilling to comply with the conditions of the order but it is in their best interest to do so, the object and principles of the Act clearly give a mandate to their caregivers to intervene.

The monitoring of the patient's condition by the case manager, carer or care provider highlights

- (a) the fact that the patient is not complying with the conditions of their community treatment order.
- (b) Caregivers know from past experience that unless the prescribed medication is taken or administered the person's mental health will start to deteriorate.
- (c) Case manager has observed signs and has a documented history of deterioration after specific signs.

[(a) and/or (b) and/or (c) are sufficient for monitoring].

At all times, the person's medication regime will be monitored and adjusted when necessary to achieve the best outcome for the person's mental and physical health.

Recent changes to the Mental Health Act have occurred to enable steps to be taken when a person fails to comply with a CTO. Firstly, all reasonable steps need to have been taken to obtain cooperation and the issue of obtaining substitute consent explored. If there is still no compliance with the CTO, the person may be admitted to an approved hospital for up to 14 days.

3. To enforce a community treatment order if the person is non compliant

3.1 Have all reasonable steps been taken to obtain cooperation, AND has the person's health deteriorated, or is there a significant risk of his/her health deteriorating?

Reasonable steps may include:

- Consultation with the family/carer in accordance with relapse signs identified in the individual service plan

- The case manager and/or the treating medical practitioner assertively follows up the non compliant person as per Mental Health Services policies and procedures.
- The reason(s) for non compliance are explored with the person by his/her caregivers
- The person's treatment is reviewed.
- The person is reminded of the conditions of the CTO.
- The person is counselled regarding the benefits of treatment and the consequences of not following it explained
- The case manager offers alternatives for administering medical treatment.

3.2 Explore substitute consent

The exploration may include:

- Obtaining substitute consent from the person responsible.
- Seeking advice from the Guardianship and Administration Board (GAB) regarding securing an appropriate method of obtaining consent.

If substitute consent is received then the case manager/medical practitioner will determine the most appropriate way and place in which to treat the person. This may be a home visit, treatment in a community centre or in the Department of Emergency Medicine/ Accident and Emergency at the Royal Hobart Hospital, Launceston General Hospital or NorthWest Regional General Hospital.

A community nurse, who is also an authorised officer may go to the person's home, may be accompanied by a police officer if required, and administer the medication if it is clinically safe to do so. The person may also be brought to the community centre for the administration of medication, again if it is clinically safe to do so.

3.3 Consent or substitute consent for treatment is not received

An approved medical practitioner (AMP) may authorise a person who has breached a CTO to be temporarily admitted to an approved hospital for up to 14 days if:

The AMP and either: - an authorised officer; or
 - a medical practitioner; or
 - the person responsible

are both satisfied that:

- (a) the person has failed to comply with the CTO; and
- (b) all reasonable steps have been taken to obtain the cooperation of the person in complying with the CTO; and

- (c) the health of the person has deteriorated or there is a significant risk that the health of the person will deteriorate because of the person's failure to comply with the order.

The authorisation must be in writing on Form 4A

There is no obligation for a person responsible to sign the authorisation and in most cases it would be preferable for an authorised officer or medical practitioner to sign. This is because of the potential harm the signing of the authorisation could cause to the ongoing relationship between the person responsible and the patient.

After the approved medical practitioner has signed an authorisation, s/he must take all reasonable steps to inform the patient that the authorisation has been made, and to provide a copy of the Form 4A to the person and the person responsible. The person must also be given a statement of their legal rights in accordance with section 45 of the *Mental Health Act 1996*.

The authorisation for temporary admission lapses after 28 days. Therefore if the person has not been admitted to hospital within that time that authorisation is no longer valid and a new authorisation must be made.

3.4 Take into protective custody

Once an authorisation for temporary admission has been made, an authorised officer may take the patient into protective custody and take him or her to an approved hospital as soon as practicable. The authorised officer can be assisted by any person the authorised officer considers appropriate (including a police officer) and may use such force as is reasonably necessary. The authorised officer must inform the approved hospital in advance that the person is being brought in to be admitted and/or treated and take the person's current prescribed medication information with him or her.

3.5 Treatment in and/or Temporary admission to an approved hospital

When the person has been brought to the Department of Emergency Medicine/ Accident and Emergency of an approved hospital the following scenarios may occur:

- The person consents to treatment, is treated at DEM/A&E and released
- GAB* or person responsible provides consent, the person is treated at DEM/A&E and released.
- The person is admitted to the psychiatric unit within the approved hospital and treated.

**The Guardianship and Administration Board can be contacted 24 hours, 7 days a week on telephone number (03) 6233 3085. For more information consult Part 6 of the Guardianship and Administration Act 1995 or the website of the Guardianship and Administration Board at: <http://www.guardianship.tas.gov.au>*

Once a person has been admitted to hospital, the authorisation for temporary admission only lasts for 14 days. It only ends before 14 days if:

- The patient is discharged from the approved hospital by the medical practitioner in charge of his or her care or treatment; or
- The AMP who made the authorisation for temporary admission cancels it; or
- The Tribunal on application from the patient revokes the authorisation.

The patient's CTO is suspended while the patient is in hospital and resumes when the period of authorisation for temporary admission ends.

If the patient is placed on a continuing care order (CCO) during the 14 day period of temporary admission, the period of temporary authorisation ends and the CTO is suspended while the patient remains in hospital.

If the patient remains in hospital for more than three months, the CTO also ends. If the patient is discharged from hospital in less than three months the CTO revives.

If the patient remains in hospital for more than 14 days on the authorisation for temporary admission then the authorisation ends and so does the CTO. There is no legal authority to hold the patient once the 14 days has elapsed, unless s/he is placed on a CCO. If the patient satisfies the requirements for involuntary admission, then he/she may be placed on an Initial Order if the CCO has not been made.

4. To renew a community treatment order

Renewal of a community treatment order – process repeats

To renew a community treatment order Form 5 must be completed. The process of renewing an order is almost identical to that of placing the person on a community treatment order except that the approved medical practitioners must have separately assessed the patient within one month (rather than one week) of the date of the proposed renewal of the CTO. Steps 1.1 to 1.5 above must be followed.

When a community treatment order ends

A community treatment order comes to an end if:

- one of the approved medical practitioners who made the order discharges the order. *NOTE: If a community treatment order is discharged, the Mental Health Tribunal must be notified within 48 hours that it has been discharged.*
- the Mental Health Tribunal discharges the order
- the person remains in an approved hospital as an involuntary patient for three months or more
- the community treatment order is not renewed at the end of the term for which it was made.