

Mental Health Act 2014

How does it affect you?
How does it protect your rights?



The Mental Health Act 2014

The law that protects people with mental illness in Victoria changed in 2014. This law is the Mental Health Act 2014.

It supports your right to:

- receive care that focuses on your recovery
- be included in decisions about your treatment
- make plans for future treatment
- allow another person to represent your views if you are unwell
- ask another doctor (psychiatrist) to assess you
- include your family, friend or carer as part of the health team

Recovery focus

The Mental Health Act provides a guide for the mental health care team to put you at the centre of your care. This is known as recovery oriented practice. Your care team will help you to:

- make positive decisions about your health
- know yourself, your strengths and what you like
- decide on your goals of treatment
- find somewhere to live, go to school or get a job
- connect with family and friends
- be part of your local community

Protecting and supporting you

The Mental Health Act encourages you to make your own choices. If you choose to go to a hospital or a clinic for treatment of your mental illness, this is called voluntary treatment.

However, there may be times when you need to receive compulsory treatment. Your treating team may give you compulsory treatment to:

- stop your illness getting worse
- stop you from hurting yourself
- stop you from hurting someone else

The Mental Health Act describes what your rights are if you need compulsory treatment.

Your treating team will explain your rights to you. If you would like to know more, you can ask for more information. If you do not understand, you can ask to have your rights explained in a way you do understand.

The Mental Health Tribunal

If you are having compulsory treatment, the Mental Health Tribunal makes sure that your treating team are following the law. They do this by making decisions about your treatment (compulsory treatment orders).

The tribunal is an independent body. The panel includes a lawyer, a doctor and a community member. They meet at the hospital or community clinic where you are receiving treatment. They may also conduct a hearing by video conference. You will be supported to take part if this happens.

They will make sure that compulsory treatment is the best choice for you at the time, and agree on the length and setting of compulsory treatment (hospital / community).

If you believe that the compulsory treatment should be stopped, the tribunal will also listen to you.

If your doctor wants to use Electroconvulsive Therapy (ECT) or neurosurgery treatments and you are unable to give informed consent, the tribunal will decide whether it is appropriate. .

Website: www.mht.vic.gov.au

Phone: 03 9032 3200 or 1800 242 703 (toll-free)

Email: mht@mht.vic.gov.au

Address: Level 30, 570 Bourke St, Melbourne, 3000

Compulsory Treatment Orders

There are three main types of orders that can be used when you are unwell. These are:

1. Assessment Order
2. Temporary Treatment Order
3. Treatment Order
 - o Treatment Order (inpatient)
 - o Treatment Order (community)

1. Assessment Order

An assessment order is a request by a doctor or a registered mental health clinician (nurse, psychologist, social worker or occupational therapist) to have you assessed by a psychiatrist. A psychiatrist is a specialist doctor who treats people with mental illness.

Assessment orders can be made when you are at home, at a clinic or in the Emergency Department of a hospital. You will be given a copy of the Assessment Order and have your rights explained.

The psychiatrist will see you and decide the best treatment. They will decide if you have a mental illness and if you need compulsory treatment. The psychiatrist can see you at home, in a clinic or in a hospital.

If the psychiatrist sees you at home or a clinic, this must happen within 24 hours (1 day) of the Assessment Order being made.

If the Assessment Order says that you need to be seen at a hospital, this must happen within 72 hours (3 days) of the order being made. The psychiatrist must then see you within 24 hours (1 day) of you getting to hospital.

2. Temporary Treatment Orders

A Temporary Treatment Order is made if the psychiatrist who sees you decides you have a mental illness and need compulsory treatment.

When making the Order, the psychiatrist will ask you what mental health treatment you would like. The psychiatrist will also look at your Advance Statement and may seek advice from your carers or Nominated Person, as appropriate.

You may have to stay in hospital for the mental health treatment - even if you do not want to.

You will not have to stay in hospital if the psychiatrist says you can have treatment at home, or by visiting a community clinic.

A Temporary Treatment Order can last up to 28 days. The psychiatrist decides if the Temporary Treatment Order should stop or continues as a Treatment Order.

3. Treatment Orders

If you are having compulsory treatment, the Mental Health Tribunal will hold a hearing to review your treatment plan. This review will happen about three weeks after the start of the Temporary Treatment Order. You can attend a hearing and can ask to have a support person with you.

The Tribunal will listen to:

- what you have to say
- your family, carer or your Nominated Person
- your doctor and treating team
- anyone you would like to speak for you (such as a lawyer)

The tribunal will also read your Advance Statement (if you have one).

If the tribunal thinks your compulsory treatment needs to continue, it will make a Treatment Order. The Treatment Order can be for either treatment in hospital or at home. The tribunal will also decide how long the order will last.

Treatment Order (inpatient)

This means that you have to stay in hospital for mental health treatment even if you do not want to.

A Treatment Order (inpatient) lasts for up to:

- 6 months (if you are an adult)
- 3 months (if you are under 18 years old)

Inpatient mental health treatment usually lasts for 1 - 2 weeks. If you have a long admission, the Mental Health Tribunal will review your treatment order every 4 weeks.

Treatment Order (community)

This means that you can have mental health treatment while living at home.

A Treatment Order (community) lasts for up to:

- 12 months (if you are an adult)
- 3 months (if you are under 18 years old)

Your psychiatrist can change the location of your treatment – either hospital or home – depending on how well you are.

This does not affect how long your treatment order lasts.

Advance Statement

An Advance Statement is a plan that you make when you are well. It is about the treatment you want when you are unwell. This helps the treating team know what treatment you prefer to receive.

Reasons to have an Advance Statement:

- to feel heard
- to feel secure
- make your choices known

If you have an Advance Statement, your treating team must use it when deciding the best treatment for you.

You can make an Advance Statement at any time as, long as you understand what this means.

An Advance Statement must be in writing. You must sign and date the statement. An “authorised witness” must also sign the statement.

An authorised witness can be a:

- doctor
- nurse
- pharmacist
- social worker
- occupational therapist
- police officer
- lawyer

Ask your treating team or advocate about making an Advance Statement. It is also important you give a copy of your Advance Statement to your treating team.

Nominated Person

A Nominated Person is someone you can choose to represent your views and wishes when you are unwell.

Your Nominated Person can be a:

- family member, carer, partner, friend or
- anyone else you choose.

You can choose or remove a Nominated Person at any time.

Information about your treatment will be shared with your Nominated Person. They can make sure your mental health treatment is what you would choose for yourself.

Your Nominated Person should be someone who knows you well, and who you trust. The person you choose must be willing and agree to be your Nominated Person.



Independent Mental Health Advocacy (IMHA)

IMHA is an independent non-legal advocacy service. IMHA can help you make or participate in decisions about your assessment, treatment and recovery.

Your IMHA advocate will take directions from you regarding your views and preferences.

Website: www.imha.vic.gov.au

Phone: 1300 947 820 between 9:30am - 4:30pm Monday-Friday

Email: contact@imha.vic.gov.au

Getting a Second Opinion

If you are receiving compulsory treatment you can ask another psychiatrist to review your treatment. This is known as getting a second opinion.

You can ask for a second opinion at any time. You can also ask someone else to request it for you. A doctor, nurse or another member of your treating team can help you with this.

The second opinion psychiatrist can be a doctor at Monash Health or another health service.

A second opinion psychiatrist will see you and let you know:

- if you still need compulsory treatment
- what is the best treatment for you

They will also give you and your treating team a written report.

Asking for a second opinion will not stop your compulsory treatment.

Your psychiatrist will read the second opinion report and decide whether to change your treatment. If your psychiatrist does not change your treatment then they must tell you:

- that they are not going to change your treatment
- why they are not going to change your treatment.

Your psychiatrist must also tell you that you can ask for the Chief Psychiatrist to review this decision.

Phone: 1300 503 426

Website: www.secondopinion.org.au

Email: intake@secondopinion.org.au

Compliments, complaints and comments

We welcome feedback from consumers and carers, as this helps us improve our service. If you are concerned by, or unhappy with the care you are receiving, you can discuss this with your treating team. They will try and fix the problem for you.

If you are still unhappy you can contact the Mental Health Program Consumer Relations Coordinator:

Phone: 03 9554 9237

Website: <https://monashhealth.org/patients-visitors>

Email: feedback@monashhealth.org

Address: Consumer Relations Coordinator, Monash Health, Locked Bag 29, Clayton South, 3169

This person listens to the concerns and compliments made by consumers, families and carers of the Mental Health Program. They can also ask for the complaint to be reviewed by senior member of staff.

Mental Health Complaints Commissioner

You can also contact the Mental Health Complaints Commissioner (MHCC).

The MHCC is an independent body that makes sure mental health services follow the law.

A doctor, nurse or other member of the treating team can help

you talk with the MHCC if you want them to. You can also ask a family member, a carer or any other person to help you, including an advocate or a legal representative.

Phone: 1800 246 054

Website: www.mhcc.vic.gov.au

Email: help@mhcc.vic.gov.au

Address: Level 6, 570 Bourke St, Melbourne, 3000

Community Visitors

Community visitors are people who visit mental health services to check on care and facilities. You can ask them questions, get support or resolve issues about the mental health service.

Phone: 1300 309 337

Website: www.publicadvocate.vic.gov.au

Email: opa_advice@justice.vic.gov.au

Address: Level 1, 204 Lygon Street, Carlton, 3053

Other Helpful Contacts

<p>Mental Health Legal Centre</p> <p>Website: www.communitylaw.org.au/mhlc</p> <p>Email: mhlc@mhlc.org.au</p> <p>For support with legal issues and tribunal hearings relating to compulsory treatment</p>	<p>03 9629 4422</p>
<p>Tandem</p> <p>Website: www.tandemcarers.org.au</p> <p>Email: info@tandemcarers.org.au</p> <p>For carer support and advocacy</p>	<p>03 8803 5555</p>
<p>Victoria Legal Aid</p> <p>Website: www.legalaid.vic</p> <p>Email: contact@imha.vic.gov.au</p> <p>For support with legal issues and tribunal hearings relating to compulsory treatment</p>	<p>1300 792 387</p>
<p>Victorian Mental Illness Awareness Council</p> <p>Website: www.vmiac.org.au</p> <p>Email: info@vmiac.org.au</p> <p>For support and advocacy for voluntary consumers (who are not on a treatment)</p>	<p>03 9380 3900</p>

Mental Health Act (2014) Handbook

The Victorian Government's official handbook on the Mental Health Act (2014).

<https://www2.health.vic.gov.au/mental-health/practice-and-service-quality/mental-health-act-2014-handbook>

Email: mentalhealthreform@dhhs.vic.gov.au

50 Lonsdale Street, Melbourne, 3000

To view this electronically click here:



Mental Health Program
Dandenong Hospital
126 Cleeland Street
Dandenong 3175



Psychiatric Triage Service
Phone 1300 369 012



monashhealth.org



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