

Hospital Admission under the *Mental Health Act 1996*

Patient rights

Patients have the right to:

- have the best possible standard of care and treatment which safeguards their civil rights and identity;
- have restrictions kept to the minimum necessary to protect the patient and other people;
- consent to (or refuse) treatment, although patients may be obliged to have treatment if they lack capacity to understand the general nature and effect of the treatment;
- see an official visitor;
- have personal information kept confidential. (This does not apply if the patient agrees to the information being released, if release of the information is necessary for the person's care or treatment or if a Court or the Guardianship Board or the Tribunal requires the information to be disclosed);
- be protected from ill-treatment and neglect.

In addition, involuntary patients have the right to:

- seek a review by the Mental Health Tribunal;
- an automatic review of the patient's order by the Tribunal if placed on a continuing care order or on a community treatment order;
- be given information concerning their rights and legal status when an order is made or renewed;
- be given a statement of treatment and diagnosis, in a form that is understandable. A doctor can withhold this information if it will have an adverse effect on the person's treatment, but must notify the Tribunal within 48 hours if information is withheld;
- have seclusion used only to protect the patient or other people;
- have restraint used only for the administration of medication, to protect the patient or other people, or to prevent the patient from destroying property.

Voluntary admission

Preference must be given to voluntary admission. Voluntary admission is admission with the patient's consent if they are 14 years or older. Young people under 14 years can be admitted as a voluntary patient if their parent(s) consent and if the young person does not oppose admission.

A voluntary patient has the right to discharge themselves from hospital at any time, although they may be detained for up to 4 hours for assessment and may be placed on an initial order.

When voluntary admission is refused

If a prospective patient is refused admission on the basis that they have no mental illness properly treatable at the hospital, they have a right to be referred to an approved medical practitioner for a second opinion.

All prospective patients refused admission must be told:

- the reason admission is being refused;
- how to obtain other medical services available elsewhere, if appropriate, and
- their right of referral for a second opinion.

Criteria for involuntary hospitalisation

A person can only be made an involuntary patient if:

- they appear to have a mental illness; and
- in consequence there is a significant risk of harm to the person or others; and
- detention of the person as an involuntary patient is necessary to protect the person or others; and
- the approved hospital is properly equipped and staffed to care for or treat the patient.

An initial order can be made by a registered medical practitioner who is satisfied that the above criteria are met. The medical practitioner who signs an initial order (Part C) cannot be a signatory to a continuing care order for the same person.

Person responsible

The 'person responsible' is, in descending order, the patient's guardian, spouse or partner (if there is a close and continuing relationship), carer or a close friend or relative. For young people under 18 years, the person responsible is the person's spouse, or if they do not have a spouse, their parent, unless they are a ward of the state. The person responsible can apply for an order and must be given information about the patient's rights when an order is made, and the person's diagnosis and treatment once this has been established, unless release of the information would have an adverse effect on the patient. If information is withheld, the Tribunal must be notified.

Assessment centres

All approved hospitals are assessment centres. Patients requiring assessment should be taken to the Department of Emergency Medicine at one of the following approved hospitals: the Royal Hobart Hospital, the Launceston General Hospital or the North-West Regional Hospital.

Authorised officers

All police officers of the rank of Sergeant and above and officers in charge of a station are authorised officers. Some DHHS staff are also authorised officers.

Mental Health Tribunal

The Mental Health Tribunal has the power to change the involuntary status of a patient and review decisions concerning transfer of patients or information withheld from patients. The Tribunal is independent of the Department of Health and Human Services. For more information the Tribunal can be contacted on telephone: (03) 6233 3033.

Official visitors

Official visitors have the duty to visit hospitals and inspect premises, listen and resolve complaints and may assist patients to apply for a review by the Mental Health Tribunal and represent or support patients at hearings. For further information official visitors can be contacted on telephone: (03) 6233 3739.