

Understanding The Mental Health Act



Canterbury Community Health Centre

Canterbury Hospital
Thorncraft Parade
Campsie NSW 2194
Phone 9787 0600

Croydon Community Health Centre

24 Liverpool Road
Croydon NSW 2132
Phone 9378 1100

Camperdown Community Health Centre

King George V Building
Missenden Road
Camperdown NSW 2050
Phone 9515 9000

Marrickville Community Health Centre

155 Livingstone Road
Marrickville NSW 2204
Phone 9562 0500

Redfern Community Health Centre

103-105 Redfern Street
Redfern NSW 2016
Phone 9395 0444

The NSW Mental Health Act 2007 (the Act) is an Act of Parliament that is the legal framework for providing care and treatment for people in NSW who experience a mental illness or mental disorder.

Who is a mentally ill person under the Act?

Under the Act a mentally ill person is someone experiencing a mental illness. If you are experiencing a mental illness and there are reasonable grounds for believing that you require care to protect you or others around you from serious harm you may be detained in a mental health facility.

Who is a mentally disordered person under the Act?

Under the Act a mentally disordered person is someone whose behaviour is considered so irrational that there are reasonable grounds for believing they require involuntary care to protect themselves or others around them from serious harm, and they may be detained in a mental health facility.

Voluntary patients

A voluntary patient is someone who has chosen to be admitted to a mental health facility, or whose guardian has requested their admission. To be admitted voluntarily an authorized medical officer must determine a person will benefit from voluntary inpatient care.

A voluntary patient can be changed to an involuntary patient and detained for up to two (2) hours to enable an initial assessment to be completed by an authorized medical officer.

Involuntary treatment in hospital

An involuntary patient is someone who has been detained in a mental health facility following a series of examinations where the severity of your mental illness and your risk of harm has been assessed.

Involuntary treatment in the community

A CTO is a legal Order made by the Mental Health Review Tribunal (MHRT) which allows for a mental health service to provide you with involuntary care whilst living in the community.

Do I have a say in my treatment as an involuntary patient in the hospital or community?

Your treating team should involve you in making decisions about your recovery. The team should provide you with information about treatment and treatment alternatives, make every reasonably practical effort to include your views and wishes in your care plan and involve you in making and understanding your plan, and make every effort to obtain your informed consent. More information on being detained in hospital under the Act can be found in the information sheet Understanding Involuntary Treatment.

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Professor Marie Bashir Centre (PMBC)

RPA Hospital
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What about families and carers?

The Act recognizes the importance of families and carers, and of providing them with access to information that may assist in providing care. There are two categories for carers; designated carers and principle care providers. These roles and their rights are described in the Designated Carer and Principal Care Provider information sheet, and includes being notified if a consumer is detained in a mental health facility, to be discharged, or considered for a CTO, or a CTO variation or revocation.

You can also exclude a person you do not wish to receive information about you or your treatment.

What is the Mental Health Review Tribunal, and what is its role?

The NSW Mental Health Review Tribunal is a specialist legal body established under the Mental Health Act 2007. It has a wide range of powers that enable it to conduct mental health inquiries, make and review treatment orders, and hear appeals about the treatment and care of people with a mental illness.

The MHRT will hold hearings regularly at the mental health facility to make decisions on extending involuntary patient orders, hear appeals against refusals to discharge, make financial management orders, make decisions about ECT for involuntary patients and order community treatment orders (CTO's). The MHRT will also review people who are in hospital voluntarily for a long period of time to ensure their care is appropriate.

Who can I ask for help?

You may ask any staff member, social worker, doctor, official visitor, chaplain, your own lawyer or the Mental Health Advocacy Service for help. The Mental Health Advocacy Service telephone number is 9745 4277, they provide free legal representation in hearings in some circumstances.

Official Visitors are appointed by the Minister for Health to visit mental health facilities in NSW. They are independent and act as an advocate to resolve issues arising from mental health treatment, including issues raised by designated carers or principal care providers.

This is a summary of key issues related to the NSW Mental Health Act 2007. For more information please talk to any Mental Health clinician, an Official Visitor, your own lawyer or the Mental Health Advocacy Service. Below are some links to good information, you can also ask your treating team to print you out any further information sheets you want to read.

- ⇒ Information on the Official Visitors Program can be found at ovmh.nsw.gov.au.
- ⇒ Information on the Mental Health Review Tribunal can be found at mhrt.nsw.gov.au/the-tribunal.
- ⇒ The NSW Health Education and Training site (HETI) provides practical information on the Mental Health Act at heti.nsw.gov.au.
- ⇒ The Mental Health Coordinating Council has an online guide to the legal and human rights of people navigating the mental health system at mhrm.mhcc.org.au.
- ⇒ The NSW Health website the NSW Mental Health Act (2007) - Guide Book (health.nsw.gov.au/mentalhealth/resources/Pages/mhact-guidebook-2007.aspx) is a good description of the Act and rights.
- ⇒ Choice and Medication (choiceandmedication.org/sydneylocal) is an SLHD site with information on medication and side effects.

