

# Neurosurgery for mental illness

## Statement of rights

You have been given this booklet because you are considering neurosurgery for mental illness. This booklet provides information about neurosurgery for mental illness and your legal rights and entitlements under the *Mental Health Act 2014*. A member of the treating team will talk to you about this information and answer your questions.

If at any time you have questions about this information or your rights, ask someone to explain. You can ask a member of the treating team, a friend, a family member, a lawyer, an advocate or a community visitor.

Copies of this booklet are available online at: [www.health.vic.gov.au/mentalhealth](http://www.health.vic.gov.au/mentalhealth)

## What is neurosurgery for mental illness?

Neurosurgery for mental illness (NMI) is an operation on the brain, used to treat people with severe mental illness who have not responded to other treatments.

NMI covers a variety of procedures including deep brain stimulation.

Deep brain stimulation uses electrodes to stimulate particular areas of the brain in an attempt to change activity in those areas and improve the symptoms of the mental illness.

NMI is rarely used and must be approved by the Mental Health Tribunal.

NMI was previously known as psychosurgery.

## What if NMI is recommended for me?

NMI can only be given to you if:

- you agree to the treatment
- the Mental Health Tribunal approves NMI for you.

The Tribunal can only approve NMI for you if you agree to NMI.

## Informed consent

If you agree to NMI this is called giving '**informed consent**'.

To give informed consent to NMI you must be able to:

- **understand** the information you are given about NMI
- **remember** the information you are given about NMI
- **use or weigh** the information about NMI
- **communicate** your decision about NMI.

A psychiatrist must talk to you about NMI.

A psychiatrist or another member of the treating team will help you to make a decision about NMI.

To help you to make a decision about NMI a psychiatrist must:

- give you enough information to help you to make a decision
- give you time to think about the decision before you make a decision
- tell you what the NMI will do to help you get better
- tell you what other treatments may help to make you better
- tell you about any side-effects, discomforts or risks of the NMI.

You can ask a psychiatrist any questions that you want about NMI. The psychiatrist must answer your questions in a way that you will best understand.

You can also have other people help you to make a decision about NMI, such as:

- a family member
- your nominated person
- a guardian
- a carer
- a mental health advocate.

You have a right to seek a second medical opinion, legal advice and any other assistance you may need to make a decision about the NMI.

No one else can consent to NMI on your behalf.

## What if I agree to have NMI?

The Mental Health Tribunal must approve NMI before it can occur.

Your psychiatrist will make an application to the Tribunal and provide the Tribunal with written evidence of your informed consent to NMI.

## Mental Health Tribunal hearing

The Mental Health Tribunal will decide whether to approve the application for NMI within 30 days of receipt of the application.

The Tribunal is an independent organisation.

The Tribunal will hold a hearing to decide if they should approve NMI.

At the Tribunal hearing there will be a group of three (3) members:

- a lawyer
- a psychiatrist
- a member of the community.

The Tribunal will listen to what you have to say about NMI.

The Tribunal will also listen to what some other people who know you have to say about the proposed NMI:

- the authorised psychiatrist
- your nominated person
- a guardian
- a carer if the decision directly affects the carer or the caring role
- a parent if you are under 16 years of age
- the Secretary to the Department of Human Services if you are on a custody to Secretary order or a guardianship to Secretary order
- any other person who you would like to come and help you at the hearing.

A neurosurgeon may also attend the hearing to explain the NMI that is proposed.

The hearing will be held either at the hospital where you are getting treatment or at a community clinic.

Sometimes, the hearing will be via video-link.

You have a right to come to the hearing and be supported by anyone you choose.

You can ask to get help from a lawyer to get ready for the Tribunal hearing.

The lawyer can also help you to have your say about NMI at the hearing.

A doctor, nurse, psychiatrist or other member of the treating team must help you to contact someone who you would like to help you at the hearing.

The Tribunal can only approve neurosurgery for mental illness if it is satisfied that you have given informed consent to NMI and that NMI will benefit you.

In deciding whether you will benefit from NMI, the Tribunal must consider:

- whether the NMI is likely to reduce the symptoms of your mental illness
- the likely results if the NMI is not done
- any alternative treatments that are reasonably available and your views about those alternative treatments
- any risks or side effects of the proposed NMI and your views about those risks and side effects.

If the Tribunal is not satisfied that you have given informed consent or that NMI will benefit you it must refuse to approve NMI.

If the Tribunal approves NMI and it is performed, your psychiatrist must report to the Chief Psychiatrist about the results of the NMI.

## What if I change my mind?

If you give informed consent to have NMI and then change your mind you can withdraw your consent at any time and the NMI will not be performed.

If you want to withdraw your consent tell your psychiatrist or get a friend, family member, advocate or lawyer to talk to them.

## Your rights

### **You have the right to get support**

You can ask to get help from a family member, a carer or any other person you choose.

You can also get help from a person who can speak your language.

A doctor, nurse, psychiatrist or other member of the treating team must help you to contact someone who you would like to help you.

### **You can speak up if you think something was not ok with the mental health services you have been given**

You can make a complaint about the mental health services you have been given.

You can talk to the treating team or staff at the hospital about your complaint. You can also talk to the Mental Health Complaints Commissioner or someone at the Commissioner's office.

The Mental Health Complaints Commissioner is an independent organisation that makes sure that mental health services are doing the right thing.

The Commissioner makes sure all assessment and treatment follows the law.

You can talk to the Commissioner or someone at the Commissioner's office at any time if you are unhappy about your assessment and treatment.

A psychiatrist, doctor, nurse or other member of the treating team must help you to talk to the Commissioner.

You can also ask a family member, a carer or any other person you choose to help you to talk to the Commissioner.

The contact details for the Mental Health Complaints Commissioner are included at the end of this booklet.

## For more information or to ask other people to help you

You can call:

**Mental Health Tribunal** is an independent tribunal that makes Treatment Orders and hears applications from patients for revocation of Temporary Treatment Orders or Treatment Orders, applications against transfer to another hospital and periodically reviews the Orders of security patients. The Tribunal also hears applications for electroconvulsive treatment and neurosurgery for mental illness.

Tel: 9032 3200

Toll Free: 1800 242 703

Fax: 9032 3223

Email: [mht@mht.vic.gov.au](mailto:mht@mht.vic.gov.au)

Website: [www.mht.vic.gov.au](http://www.mht.vic.gov.au)

Address: Mental Health Tribunal  
Level 30, 570 Bourke Street  
MELBOURNE VIC 3000

**Mental Health Complaints Commissioner** is an independent complaints body that can help you with any concerns or complaints you may have about the mental health services you are being given.

Toll Free: 1800 246 054

Email: [help@mhcc.vic.gov.au](mailto:help@mhcc.vic.gov.au)

Website: [www.mhcc.vic.gov.au](http://www.mhcc.vic.gov.au)

Address: Mental Health Complaints Commissioner  
Level 26, 570 Bourke Street  
MELBOURNE VIC 3000

**Victoria Legal Aid** provides free legal information, education and advice about lots of areas of law. It provides a visiting advice service to most of Melbourne's mental health inpatient facilities and many regional mental health inpatient facilities.

For information about the law and how we can help you, call Legal Aid on **1300 792 387**

More information is on the Victoria Legal Aid website at [www.legalaid.vic.gov.au](http://www.legalaid.vic.gov.au)

**Mental Health Legal Centre** provides a free legal advice service on Tuesday and Thursday evenings between 6.30 pm and 8.30 pm.

Tel: 9629 4422

More information is on the Mental Health Legal Centre website at [www.communitylaw.org.au/mhlc](http://www.communitylaw.org.au/mhlc)

**Community Visitors** are people who visit mental health services and can assist you with any questions and help you to seek support or resolve issues about the mental health services you are being given.

Tel: 1300 309 337