

Medical treatment

Statement of rights

You have been given this booklet because you are a patient under the *Mental Health Act 2014* and medical treatment has been recommended for you. This booklet provides information about medical treatment 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

Does this booklet apply to me?

This booklet is for a 'patient' under the *Mental Health Act 2014* who needs 'medical treatment'.

A 'patient', is a person on one of these orders:

- Assessment Order or Court Assessment Order
- Temporary Treatment Order or Treatment Order
- Secure Treatment Order or Court Secure Treatment Order.

Medical treatment means treatment for a physical illness or condition. It is not treatment for mental illness.

Medical treatment

You can make decisions about your medical treatment. A doctor or another member of the treating team must talk to you about what medical treatment you would like.

If you agree to medical treatment this is called 'informed consent'.

To give informed consent to medical treatment you must be able to:

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

A doctor or another member of the treating team will help you to make decisions about your medical treatment.

You can also say no to medical treatment if you choose.

If you need to go to another hospital for medical treatment, your psychiatrist will give you leave to go to the other hospital for medical treatment.

To help you make a decision about your medical condition, a doctor must:

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

You can ask a doctor any questions that you want about the medical treatment.

The doctor must answer your questions in a way that you will best understand.

You can also ask for a second opinion about whether you need the medical treatment.

Other people can also help you to make decisions about your medical treatment, such as:

- a family member
- your nominated person
- a guardian
- a carer
- mental health advocate
- any other person you choose.

What if I don't want medical treatment or I can't make a decision?

No one can force you to have medical treatment. You can say no to the medical treatment if you choose.

If you are unable to make a decision about medical treatment the law says who can agree to medical treatment for you.

If you are an adult, these people can agree to medical treatment for you:

- a medical enduring power of attorney (if you have appointed one)
- a person appointed by the Victorian Civil and Administrative Tribunal to make decisions about the proposed treatment (if someone has been appointed)
- a guardian
- an enduring guardian (if you have appointed one)
- the authorised psychiatrist.

The authorised psychiatrist will only make a decision about your medical treatment if there is no one else to make the decision for you.

If you are under 18 years of age, these people can agree to medical treatment for you:

- a parent
- a guardian
- a person with legal authority to consent to medical treatment
- the authorised psychiatrist.

The authorised psychiatrist will only make a decision about your medical treatment if there is no one else to make the decision for you.

If you are unable to agree to medical treatment the psychiatrist will still listen to what you have to say about medical treatment.

The psychiatrist will also listen to what some other people who know you have to say about your treatment:

- your nominated person
- a guardian
- a carer if the medical treatment decision will directly affect the carer or the caring role
- a parent if you are a young person 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.

The psychiatrist will also look at any second opinion about medical treatment that has been given to the psychiatrist.

The psychiatrist will also think about how it will affect your health if the medical treatment is not given to you.

Even if you are unable to make a decision about your medical treatment now, you may be able to make a decision at another time.

Urgent medical treatment

A psychiatrist or doctor can give you urgent medical treatment even if you do not agree.

A psychiatrist or doctor can only give you urgent medical treatment:

- to save your life
- to prevent serious damage to your health
- to prevent you from suffering or continuing to suffer a lot of pain or distress.

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 have the right to communicate with anyone you choose while you are in hospital

You can communicate with any person you choose **unless this is contrary to a current security condition.**

You can make a phone call.

Your mail will not be opened.

A doctor, nurse, psychiatrist or other member of the treating team must help you to communicate with any person.

A psychiatrist can stop you communicating with another person if it is necessary to protect the health, safety or wellbeing of you or another person.

A psychiatrist cannot stop you communicating with:

- a lawyer
- the Mental Health Complaints Commissioner
- the Mental Health Tribunal
- the Chief Psychiatrist
- a community visitor.

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

You can make a complaint about the medical treatment and treatment you have been given.

You can talk to the treating team or staff at the hospital about your complaint.

You can talk to the Health Services Commissioner or someone at the Commissioner's office if you are unhappy about **health services** (medical treatment) and you can talk to the Mental Health Complaints Commissioner if you are unhappy about the **mental health services** (treatment) you have been given.

The Commissioners make sure medical and mental health treatment is done in a way that follows the law.

A doctor, nurse or other member of the treating team must help you to talk to the relevant Commissioner or someone at the Commissioner's office.

The contact details for both the Office of the Health Services Commissioner and the Office of 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:

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

Tel: 1300 582 113

Fax: 9032 3111

Email: hsc@health.vic.gov.au

Website: www.health.vic.gov.au/hsc

Address: Health Services Commissioner
Level 26, 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

Website: 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

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

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