Medical Treatment Planning and Decisions Act 2016
ECT consent pathway for voluntary* adults who lack decision-making capacity

*Not a patient under the Mental Health Act 2014.

The Medical Treatment Planning and Decisions Act provides a four-part test to determine if a person has decision-making capacity. To have decision-making capacity, a person must be able to:
(a) understand the information relevant to the decision and the effect of the decision;
(b) retain that information to the extent necessary to make the decision;
(c) use or weigh that information as part of the process of making the decision; and
(d) communicate the decision and the person's views and needs as to the decision in some way, including by speech, gestures or other means.

If psychiatrist is satisfied ECT is the least restrictive treatment of a person's mental illness, the psychiatrist must determine if the person has capacity to consent to ECT

Does the person have capacity?

Psychiatrist ensures reasonable action is taken to determine if the person has made an MTPDA Advance Care Directive (Instructional Directive and/or Values Directive)

Does MTPDA Advance Care Directive include instructional directive that consents to ECT?

Psychiatrist establishes if consent to ECT will be provided by:
• a medical treatment decision maker appointed by the person when they had capacity or
• a guardian appointed by VCAT or
• the first available and willing individual from this list with a close continuing relation with the person: spouse or domestic partner, primary carer, oldest adult child, oldest part or oldest sibling

Is consent to be provided by one of the above medical treatment decision makers?

The person either consents to ECT or refuses it

MTPDA pathway ends

Medical treatment decision maker consents to ECT (Form MHA 131A)

Psychiatrist applies to MHT to approve ECT for the person (MHA Form 132A)

Does MHT approve application for ECT?

Treatment proceeds until medical treatment decision maker withdraws their consent or person regains capacity and consents to ECT or refuses it

MTPDA pathway ends

Psychiatrist applies to to MHT to approve ECT for the person (Form MHA 132A)

Does MHT approve application for ECT?

Treatment proceeds until person regains capacity and consents to ECT or refuses it

MTPDA pathway ends

MTPDA pathway ends

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