

Consumer And Carer Rights

TASMANIA'S MENTAL HEALTH ACT

Mental Health, Alcohol and Drug Directorate
Department of Health and Human Services

Chief Psychiatrist Approved



Outline

- Overview
- The Act's Objects and Principles
- Patient rights
- Information rights
- Statements of rights
- Documentation to be given
- Treatment plans, confidentiality, procedural rights
- Carer rights
- Useful resources
- Questions?

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Overview

- The *Mental Health Act 2013* regulates the involuntary assessment and treatment of people with mental illness
- The Act provides for Assessment Orders and Treatment Orders; regulates seclusion, restraint and patient leave; establishes the statutory offices of Chief Civil Psychiatrist and Chief Forensic Psychiatrist; and enables Official Visitors to be appointed
- The Act also establishes the Mental Health Tribunal and provides the Tribunal with a range of powers and functions
- The Act is consumer centred and recognises that competent adults have the right to make their own decisions about assessment and treatment. It requires decisions which infringe a person's rights to be independently oversighted; and provides consumers with specific rights

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The Act's Objects

- The Act should be interpreted and utilised in accordance with its objects
- The Act's objects include:
 - To provide for appropriate oversight and safeguards in relation to the assessment and treatment of people with mental illness
 - To give everyone involved with the assessment and treatment of people with mental illness clear direction as to their rights and responsibilities
 - To provide for the assessment and treatment of people with mental illness to be given in the least restrictive setting consistent with clinical need, legal and judicial constraints, public safety and patient health, safety and welfare
 - To promote voluntary over involuntary assessment and treatment and the making of free and informed assessment and treatment choices

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12. Objects of Act

The objects of this Act are as follows:

- (a)** to provide for the assessment and treatment of persons with mental illnesses;
- (b)** to provide for appropriate oversight and safeguards in relation to such assessment and treatment;
- (c)** to give everyone involved with such assessment and treatment clear direction as to their rights and responsibilities;
- (d)** to provide for such assessment and treatment to be given in the least restrictive setting consistent with clinical need, legal and judicial constraints, public safety and patient health, safety and welfare;
- (e)** to promote voluntary over involuntary assessment and treatment and the making of free and informed assessment and treatment choices;
- (f)** to provide for all incidental and ancillary matters.

The Act's Principles

- People exercising responsibilities under the Act are required to have regard to the mental health service delivery principles
- The principles are out in Schedule 1 and include:
 - To respect, observe and promote the inherent rights, liberty, dignity, autonomy and self-respect of people with mental illness
 - To interfere with or restrict the rights of people with mental illness in the least restrictive way and to the least extent consistent with the protection of those people, the protection of the public and the proper delivery of the service
 - To promote the ability of people with mental illness to make their own choices and to involve people receiving services in decision making
 - To respect the wishes of people receiving services to the maximum extent consistent with the health and safety of those people and others

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15. Mental health service delivery principles

All persons exercising responsibilities under this Act are to have regard to the mental health service delivery principles set out in [Schedule 1](#).

Schedule 1.

The mental health service delivery principles are as follows:

- (a)** to respect, observe and promote the inherent rights, liberty, dignity, autonomy and self-respect of persons with mental illness;
- (b)** to interfere with or restrict the rights of persons with mental illness in the least restrictive way and to the least extent consistent with the protection of those persons, the protection of the public and the proper delivery of the relevant service;
- (c)** to provide a service that is comprehensive, accessible, inclusive, equitable and free from stigma;
- (d)** to be sensitive and responsive to individual needs (whether as to culture, language, age, religion, gender or other factors);
- (e)** to emphasise and value promotion, prevention and early detection and intervention;
- (f)** to seek to bring about the best therapeutic outcomes and promote patient recovery;
- (g)** to provide services that are consistent with patient treatment plans;

- (h)** to recognise the difficulty, importance and value of the role played by families, and support persons, of persons with mental illness;
- (i)** to recognise, observe and promote the rights, welfare and safety of the children and other dependants of persons with mental illness;
- (j)** to promote the ability of persons with mental illness to make their own choices;
- (k)** to involve persons receiving services, and where appropriate their families and support persons, in decision-making;
- (l)** to recognise families, and support persons, of persons with mental illness as partners, with mental health service providers, in the provision of their treatment and care to the extent that this is appropriate and consistent with their own wishes;
- (m)** to respect the wishes of persons receiving services, and the wishes of their families and support persons, to the maximum extent consistent with the health and safety of those persons and the safety of others;
- (n)** to promote and enable persons with mental illness to live, work and participate in their own community;
- (o)** to operate so as to raise community awareness and understanding of mental illness and to foster community-wide respect for the inherent rights, liberty, dignity, autonomy and self-respect of persons with mental illness;
- (p)** to be accountable;
- (q)** to recognise and be responsive to national and international clinical, technical and human rights trends, developments and advances.

The Act's Principles (cont.)

- To recognise the difficulty, importance and value of the role played by families, and support people, of people with mental illness
- To involve people receiving services, and where appropriate their families and support people, in decision making
- To recognise families and support people of people with mental illness as partners, with mental health service providers, in the provision of treatment and care to the extent that this is appropriate and consistent with the person's wishes
- To respect the wishes of people receiving services, and the wishes of their families and support people, to the maximum extent consistent with the health and safety of the person and the safety of others

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Involuntary and forensic patient rights slide 1

- Involuntary and forensic patients have specific rights under the legislation
- Every patient (whether involuntary or forensic) has the following rights:
 - The right to have restrictions on, and interference with, his or her dignity, rights, and freedoms kept to a minimum consistent with his or her health or safety and the safety of other people
 - The right to have his or her decision making capacity promoted, and his or her wishes respected, to the maximum extent consistent with his or her health or safety and the safety of others

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62. Rights of involuntary patients

Every involuntary patient has the following rights:

- (a)** the right to have the restrictions on, and interference with, his or her dignity, rights and freedoms kept to a minimum consistent with his or her health or safety and the safety of other persons;
- (b)** the right to have his or her decision-making capacity promoted, and his or her wishes respected, to the maximum extent consistent with his or her health or safety and the safety of other persons;
- (c)** the right, while in an approved hospital, to have access to current information about local, national and world events;
- (d)** the right to be given clear, accurate and timely information about –
 - (i)** his or her rights as an involuntary patient; and
 - (ii)** the rules and conditions governing his or her conduct in the hospital; and
 - (iii)** his or her diagnosis and treatment;
- (e)** the right, while in an approved hospital, to apply for leave of absence in accordance with this Act;
- (f)** the right to have contact with, and to correspond privately with, his or her representatives and support persons and with Official Visitors;
- (g)** the right, while in an approved hospital, to be provided with general health care;
- (h)** the right, while in an approved hospital, to wear his or her own clothing

(where appropriate to the treatment setting);

(i) the right, while in an approved hospital, not to be unreasonably deprived of any necessary physical aids;

(j) the right, while in an approved hospital, to be detained in a manner befitting his or her assessment, treatment or care requirements;

(k) the right, while in an approved hospital, to practise a religion of the patient's choice, to join with other patients in practising that religion and to possess such articles as are reasonably necessary for the practice of that religion (to such extent as is consistent with his or her health or safety, the safety of other persons and the management, good order and security of the hospital);

(l) the right, while in an approved hospital –

(i) to practise customs in accordance with the patient's cultural beliefs or cultural background; and

(ii) to join with other patients in practising those customs; and

(iii) to possess articles that are reasonably necessary for the practice of those customs –

to the extent that the practice of those customs is not contrary to any law and is consistent with the health and safety of the patient and other patients and the management, good order and security of the hospital;

(m) the right, while in an approved hospital, to ask for and be given such reasonable help from hospital staff as will enable the patient to enjoy these rights.

Involuntary and forensic patient rights slide 2

- The right, while in an approved hospital or secure mental health unit (as the case may be), to have access to current information about local, national and world events
- The right, while in an approved hospital or secure mental health unit, to be provided with general health care
- The right, while in an approved hospital or secure mental health unit, to apply for leave of absence in accordance with the Act
- The right not to be unreasonably deprived of any necessary physical or communication aids

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Involuntary and forensic patient rights slide 3

- The right, while in an approved hospital or secure mental health unit, to wear his or her own clothing
- The right, while in an approved hospital or secure mental health unit, to practice a religion of the patient's choice
- The right, while in an approved hospital or secure mental health unit, to practice customs in accordance with the patient's cultural beliefs or background
- The right to be given clear, accurate and timely information about his or her rights, the rules and conditions that apply in the hospital or secure mental health unit and the person's diagnosis and treatment

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The right to practice a religion and customs extends to joining with others in the practice of the religion or customs, and possessing articles that are reasonable necessary for the practice of the religion or customs, and is limited by the extent to which the practice of the religion or customs is consistent with the patient's health and safety and the health and safety of other patients, and the management, good order and security of the hospital.

Involuntary and forensic patient rights slide 4

- The right, while in an approved hospital or secure mental health unit, to ask for - and to be given - help from hospital and unit staff to enable the patient to enjoy his or her rights
- The right to have information given to him or her in a language or form that the patient understands, including through the assistance of an interpreter or an alternative or augmentative communication system if necessary

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135. Translation, interpreters, &c.

All persons exercising responsibilities under this Act are, as far as may be reasonably practicable in the circumstances, to ensure that any information required to be given to a patient or to a representative or support person of a patient is, if necessary through the assistance of an interpreter or an alternative or augmentative communication system, given or relayed in a language or form that the patient or, as the case may be, the representative or support person understands.

Involuntary patient rights

- Involuntary patients have the following additional rights:
 - The right to have contact with, and to correspond privately with, the patient's representatives and support persons, and with Official Visitors
 - The right, while in an approved hospital, to be detained in a manner that suits the patient's assessment, treatment and care needs

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3. Interpretation

(1) In this Act, unless the contrary intention appears –
representative, of a patient or prospective patient, means –

- (a) the patient's guardian; or
- (b) the patient's Australian lawyer; or
- (c) if the patient is a child and raises no objection, a parent of the patient; or
- (d) any other person nominated by the patient to represent his or her interests;

support person, of a patient or prospective patient, means a person who provides the patient with ongoing care or support;

guardian has the same meaning as in the [Guardianship and Administration Act 1995](#);

Forensic patient rights

- Forensic patients have the following additional rights:
 - The right to be provided with food that is adequate to maintain the patient's health and wellbeing, and a diet that is not unvarying
 - The right to be provided with special dietary food if the Chief Forensic Psychiatrist is satisfied that such food is necessary for medical reasons, on account of the patient's religious beliefs or because the patient is a vegetarian

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Forensic patient rights (cont.)

- The right to be provided with basic clean clothing that is suitable for the climate, of a suitable size and adequate to maintain the patient's health
- The right to adequate toilet arrangements, sanitary arrangements, light and ventilation
- The right to have access to legal advice
- The right to be provided with information about the rules and conditions which will govern the patient's behaviour in the secure mental health unit

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Statements of rights

- The Act requires a statement of rights to be given to a patient or prospective patient at particular points throughout the person's assessment and treatment pathway
- This includes when a person is taken to an approved assessment centre in protective custody and when an Assessment or Treatment Order is made
- A statement of rights is a written statement that sets out the rights that a patient or prospective patient has in particular circumstances

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3. Interpretation

(1) In this Act, unless the contrary intention appears –
statement of rights means a written statement that sets out and succinctly explains, in plain language, what rights a patient or prospective patient has in the particular circumstances under this Act in which he or she is required to be given such a statement;

Documentation

- The Act also requires patients and prospective patients to be provided with copies of important documentation at key points
- This includes copies of Assessment and Treatment Orders made, and copies of documentation authorising urgent circumstances treatment and the use of seclusion or restraint
- The documentation must be given directly to the patient or prospective patient as soon as is practicable in the circumstances

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The requirement to provide a patient with a copy of documentation is generally accompanied by a requirement for a copy of the documentation to be placed on the patient's clinical file. This enables the patient or their representative to later view or obtain a copy of documentation that has been provided to the patient.

11. Timing of actions

(1) Where this Act requires an action to be taken, then, unless the contrary intention appears, the action must be taken as soon as practicable.

(2) For the purposes of [subsection \(1\)](#) –

- (a)** it is irrelevant whether the requirement is mandatory or directory; and
- (b)** it is irrelevant how the requirement is expressed or described.

226. Service of documents

(1) A notice or other document that is required to be given or served under this Act is effectively given or served if –

(a) in the case of a natural person who is –

- (i) a voluntary inpatient; or
- (ii) a forensic patient; or

(iii) an involuntary patient who is being detained in an approved facility under the authority of an assessment order

or a treatment order –
the document is given to the person; or
(b) in the case of any other natural person, the document is –
 (i) given to the person; or
 (ii) left at, or sent by post to, the person's postal or
residential address or place or address of business or
 employment last known to the server of the document; or
 (iii) faxed to the person's fax number; or
 (iv) emailed to the person's email address; or
(c) in the case of any other person, it is –
 (i) left at, or sent by post to, the person's principal or
registered office or principal place of business; or
 (ii) faxed to the person's fax number; or
 (iii) emailed to the person's email address.

(2) For the purposes of this section –

"give", in relation to a notice or other document, includes cause the notice or other document to be given.

Treatment Plans

- A treatment plan is an instrument that sets out an outline of the treatment that a patient is to receive
- The Act requires every involuntary patient to have a treatment plan
- A treatment plan is to be prepared in consultation with the patient
- Any variation to the plan also requires consultation with the patient

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50. Nature of treatment plan

The treatment plan for a patient is an instrument that sets out an outline of the treatment the patient is to receive.

51. Requirement for treatment plan

The CCP is to ensure that each involuntary patient has a treatment plan.

52. Form of treatment plan

A treatment plan is to be in a CCP approved form.

53. Preparation of treatment plan

(1) A patient's treatment plan may be prepared by any medical practitioner involved in the patient's treatment or care.

(2) In preparing a treatment plan, a medical practitioner –

(a) is to consult the patient; and

(b) may, after consulting the patient, consult such other persons as the medical practitioner thinks fit in the circumstances.

- (3)** A medical practitioner who prepares a treatment plan is to –
- (a)** give a copy of the treatment plan to –
 - (i)** the patient; and
 - (ii)** the CCP; and
 - (b)** place a copy of the treatment plan on the patient's clinical record.

54. Variation of treatment plan

(1) A patient's treatment plan may be varied at any time by any medical practitioner involved in the patient's treatment or care.

(2) The treatment plan for a patient subject to a treatment order may only be varied under [subsection \(1\)](#) if the treatment plan, as so varied, is in accordance with, and is not more restrictive of the patient's rights, privileges and freedom of action than, the treatment order.

(3) In varying a treatment plan, a medical practitioner –

- (a)** is to consult the patient; and
- (b)** may, after consulting the patient, consult such other persons as the medical practitioner thinks fit in the circumstances.

(4) A medical practitioner who varies a treatment plan is to –

- (a)** ensure that the variation (and the reason for the variation) is fully documented; and
- (b)** give a copy of the documentation to the CCP; and
- (c)** give a copy of the documentation to the Tribunal; and
- (d)** place a copy of the documentation on the patient's clinical record; and
- (e)** give notice of the variation (and the reason for the variation) to the patient.

(5) The notice to the patient may contain such further particulars as the medical practitioner thinks fit in the circumstances.

Confidentiality

- The Act limits the circumstances in which confidential or personal information about a patient may be disclosed
- Confidential or personal information about a patient may only be disclosed if:
 - The disclosure is authorised or required by law, or by a Court
 - The patient consents to the disclosure
 - The patient's treating medical practitioner considers the disclosure to be necessary for the patient's treatment and care
 - The person making the disclosure reasonably considers it to be necessary to prevent or lessen a serious threat to public health or safety
 - Another circumstance referred to in section 134 of the Act applies

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134. Disclosure of confidential, &c., information about patients

(1) A person who obtains information of a confidential or personal nature about a patient in discharging any responsibilities under this Act must not disclose the information except as authorised or required under [subsection \(2\)](#).

Penalty: Fine not exceeding 50 penalty units or imprisonment for a term not exceeding 6 months.

(2) The information may be disclosed if –

- (a)** the disclosure is authorised or required by law or any court; or
- (b)** the disclosure is made for or in connection with the reporting or lawful investigation of a crime or unlawful act (whether actual or prospective); or
- (c)** where the patient is capable of consenting to the disclosure, the patient so consents; or
- (d)** despite or regardless of whether the patient consents to the disclosure, the treating medical practitioner considers it necessary for the patient's treatment and care; or
- (e)** where the patient has been dead for less than 25 years at the relevant time, the patient's next-of-kin consents to the disclosure; or
- (f)** the disclosure is directly related to the purpose for which the information was obtained and the person making the disclosure reasonably believes that the patient would want or expect the information to be disclosed for that purpose; or

- (g)** the person making the disclosure reasonably believes it to be necessary so as to prevent or lessen a serious threat to the life, health or safety of the patient or other person; or
- (h)** the person making the disclosure reasonably believes it to be necessary so as to prevent or lessen a serious threat to public health or safety; or
- (i)** the disclosure is authorised by the Tribunal; or
- (j)** the person making the disclosure reasonably believes it to be necessary in connection with the administration of this Act.

Procedural rights

- Involuntary and forensic patients have a range of procedural rights under the Act, including:
 - The right to be a party to Tribunal proceedings, to institute or intervene in proceedings, and to attend hearings held in proceedings to which the patient is a party
 - The right to be given reasonable notice of each hearing
 - The right to appear at a hearing personally, or to be represented by an Australian legal practitioner, advocate or other person
 - The right to nominate a person as his or her representative

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SCHEDULE 4 - Proceedings of Tribunal

PART 1 - Interpretation

1. Interpretation

In this Schedule –

party, to any proceedings, means any or all of the following:

- (a) the person who applied to commence the proceedings;
- (b) the person in respect of whom an order is sought;
- (c) if an order is sought in respect of a child, a parent of the child;
- (d) the patient's representative, including a support person;
- (e) the controlling authority of the facility in which the patient is or has been accommodated;
- (f) the relevant Chief Psychiatrist;
- (g) the Secretary;
- (h) the Director of Corrective Services or the Secretary (Youth Justice), as appropriate;
- (i) the Public Guardian or Deputy Public Guardian;
- (j) any other person that the Tribunal determines has a proper interest in the proceedings;

2. Persons with standing

The following persons have standing to institute or intervene in proceedings:

- (a)** the patient;
- (b)** the patient's representatives;
- (c)** if the patient is or has been in an approved facility, the controlling authority of the approved facility;
- (d)** if the patient is not a forensic patient, the CCP;
- (e)** if the patient is a forensic patient, the CFP and, if the patient is also an involuntary patient, the CCP;
- (f)** the treating medical practitioner;
- (g)** by leave of the Tribunal, any other person who it considers to have a proper interest.

4. Notice

- (1)** The Tribunal is to ensure that a party to any proceedings is given reasonable notice of each hearing held in the course of those proceedings.
- (2)** The Tribunal may notify such other persons of the hearing as it thinks fit in the circumstances.

7. Representation

- (1)** A party to any proceedings is entitled to attend the hearings held in those proceedings.
- (2)** However, the Tribunal may exclude any person from any proceedings if it reasonably considers that the person's presence may be detrimental to his or her health, safety or welfare or that of another person who is present.
- (3)** A party to any proceedings may appear personally in the proceedings or be represented by an Australian legal practitioner, advocate or other person.

PART 6 - Miscellaneous

1. Statements of reasons

- (1)** A party to any proceedings may, during the prescribed period, apply to the Tribunal for a written statement of its reasons for making any determination in or in respect of those proceedings.
- (2)** The Tribunal is to comply with the request within 21 clear days after receiving it.
- (3)** The statement of reasons is to be provided to every party to the proceedings.
- (4)** In this clause –

prescribed period means the 30-day period immediately after the day on which the relevant proceedings were finally determined.

Procedural rights slide 1

- The right to apply to the Mental Health Tribunal for review of:
 - The making of an Assessment Order
 - A Treatment Order
 - Urgent circumstances treatment, seclusion or restraint
 - If the patient is a forensic patient - the application of force
 - The withholding of information from the patient
 - The patient's transfer within Tasmania
 - Decisions about leave of absence
 - If the patient is an involuntary patient – the patient's admission to a secure mental health unit, and/or any extension of the period of time for which the patient may be detained in the unit

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Procedural rights slide 2

- If the patient is a forensic patient and also a prisoner or youth detainee – the patient's admission to a secure mental health unit and any decision by the Chief Forensic Psychiatrist to refuse to allow the patient to return to prison or youth detention
- Decisions about a forensic patient's visiting, telephone or correspondence rights
- The right to apply to the Tribunal for a written statement of reasons, and to be provided with a statement if one is applied for
- The right to appeal to the Supreme Court from any Tribunal determination
- The right not to have information about his or her status as a patient published

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174. Appeals from determinations

(1) A person who is a party to any proceedings of the Tribunal may appeal to the Supreme Court from any determination made in those proceedings.

(2) A person may appeal to the Supreme Court if the person is aggrieved by any determination of the Tribunal made otherwise than in proceedings.

(3) An appeal may be brought –

(a) on a question of law, as of right; or

(b) on any other question, only with the leave of the Supreme Court.

175. Appeals procedure

(1) An appeal under [section 174](#) is to be instituted in accordance with the rules in force under the [Supreme Court Civil Procedure Act 1932](#) –

(a) within 30 days after the day on which the appellant is given notice of the relevant determination by the Tribunal; or

(b) if, within the period referred to in [paragraph \(a\)](#), the person gives the Tribunal a written request for a statement of reasons for the relevant determination, within 30 days after the day on which the person is given that statement of reasons.

(2) Notwithstanding [subsection \(1\)](#), the Supreme Court may at any time allow an appeal to be brought later than that subsection allows.

(3) The Supreme Court is to hear and determine the appeal and may make an order –

- (a) affirming the determination; or
- (b) setting aside the determination and substituting its own determination; or
- (c) setting aside the determination and remitting the matter to the Tribunal for redetermination, with or without directions.

(4) The Supreme Court may make any further order it considers just in the circumstances.

133. Publication of sensitive information about patients

(1) A person who publishes information for financial or other gain must not –

- (a) publish the fact that another person is or has been a forensic patient or an involuntary patient; or
- (b) publish any photograph or other kind of picture of another person, who is or has been a forensic patient or an involuntary patient, that relates to the person's status as a forensic patient or an involuntary patient; or
- (c) publish any information that could reasonably be expected to identify a person as being or as having been a forensic patient or an involuntary patient; or
- (d) publish any information pertaining to a person's treatment or care as a forensic patient or an involuntary patient.

Penalty: In the case of –

- (a) a body corporate, a fine not exceeding 250 penalty units; or
- (b) an individual, a fine not exceeding 50 penalty units or imprisonment for a term not exceeding 6 months.

(2) However, [subsection \(1\)](#) does not apply if the relevant publication is –

- (a) expressly and freely authorised by, and with the full understanding of, the person who is or has been a forensic patient or an involuntary patient; and
- (b) if the patient is a forensic patient, expressly authorised by the CFP.

(3) Also, [subsection \(1\)](#) does not prohibit the publication of a report on any court or Tribunal proceedings which is not otherwise prohibited by or under any law.

(4) In this section –

publish includes, but is not limited to, publish by means of –

- (a) a newspaper, magazine or journal; and
- (b) a television broadcast; and
- (c) a computer.

Carer involvement

- The Act recognises the role played by carers as follows:
 - A guardian, parent or support person of a person with mental illness may apply for an Assessment Order for that person
 - A carer, family member or support person of an involuntary patient may be consulted by a medical practitioner in the preparation or revision of the patient's treatment plan
 - A representative, support person or other person may be notified of a patient's admission to, transfer between, or discharge from, an approved hospital or secure mental health unit, and of matters related to the patient's leave of absence

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3. Interpretation

(1) In this Act, unless the contrary intention appears –

guardian has the same meaning as in the [Guardianship and Administration Act 1995](#);

parent, of a child, means a person having, for the child, all of the responsibilities which, by law, a parent has in relation to his or her children;

representative, of a patient or prospective patient, means –

- (a) the patient's guardian; or
- (b) the patient's Australian lawyer; or
- (c) if the patient is a child and raises no objection, a parent of the patient; or
- (d) any other person nominated by the patient to represent his or her interests;

support person, of a patient or prospective patient, means a person who provides the patient with ongoing care or support;

Carer involvement (cont.)

- A representative, support person or other person may be provided with personal or confidential information about a patient or prospective patient if the patient's treating medical practitioner considers this to be necessary for the patient's treatment or care
- A patient's support person, representative or other person may make a complaint to the Principal Official Visitor
- A patient's support person, representative or other person may ask the Principal Official Visitor to visit premises from which the patient is being provided with services under the legislation
- A patient's representative, or other person that the Tribunal considers has a proper interest in the matter, may institute or intervene in Tribunal proceedings

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Carer rights

- A patient's representative, or other person, who institutes or intervenes in Tribunal proceedings has the right to attend the hearings held in those proceedings, and to appear personally or be represented by an Australian legal practitioner, advocate or other person
- Representatives or support people have the right to have information given to them in a language or form that the representative or support person understands, including through the assistance of an interpreter or an alternative or augmentative communication system if necessary

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135. Translation, interpreters, &c.

All persons exercising responsibilities under this Act are, as far as may be reasonably practicable in the circumstances, to ensure that any information required to be given to a patient or to a representative or support person of a patient is, if necessary through the assistance of an interpreter or an alternative or augmentative communication system, given or relayed in a language or form that the patient or, as the case may be, the representative or support person understands.

Carer rights (cont.)

- Parents of children with mental illness whose assessment and treatment is regulated by the Act also have the right to:
 - Provide, withdraw or refuse consent to the child's assessment or treatment if the child is assessed as lacking decision making capacity
 - Be given a copy of any documentation that the Act requires to be given to the child, unless the child objects to this occurring

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9. Informed consent for child who lacks capacity to decide on own assessment or treatment

(1) For the purposes of this Act, informed consent for the assessment or treatment of a child who lacks decision-making capacity may be given by a parent of the child.

(2) To avoid doubt, for [subsection \(1\)](#) the informed consent of one parent is sufficient.

(3) Informed consent for the assessment or treatment of a child who lacks decision-making capacity may be withdrawn before the assessment or treatment is made or provided, but only by each parent of the child consenting to the withdrawal of consent.

(4) Nothing in this Act is to be taken to prevent the withdrawal under [subsection \(3\)](#) of consent to an assessment or a treatment before the assessment or treatment is made or provided and, if the consent is withdrawn, informed consent is not to be taken to have been given to the assessment or treatment.

137. Parents of child patients to be given same information as patients

(1) A person who is required to give a patient a notice or other document under this

Act must, if the patient is a child and the patient does not object, also give a copy of the notice or document to a parent of the patient at the same time.

(2) To avoid doubt, for [subsection \(1\)](#) the giving of the notice or document to one parent is sufficient.

Useful Resources

- The *Mental Health Act 2013* can be accessed at [Tasmanian Legislation Online](#)
- A range of useful information about the Act is available to read, download and print from [the Mental Health Act website](#) including:
 - Approved Forms
 - Flowcharts
 - Standing Orders and Clinical Guidelines
 - Online Training Packages and other Education Resources
 - A Clinician's Guide to the *Mental Health Act 2013*
 - Fact Sheets and other Information for Consumers
 - Statements of Rights
- Mental Health Tribunal forms including Application for Review forms may be found on [the Mental Health Tribunal's website](#)

Chief Psychiatrist Approved

Questions

Any questions?

Chief Psychiatrist Approved