

Amendments to the Mental Health Act 1986: Information for Emergency Departments November 2004

Introduction

Amendments to the *Mental Health Act 1986* come into effect on 6 December 2004. The changes clarify the procedures to initiate involuntary treatment under the Mental Health Act.

A key change for Emergency Departments (ED) is the introduction of **Involuntary Treatment Orders**.

Background

It has been the practice for many years to gazette the entire campus of public hospitals that have an acute psychiatric in-patient unit, as an 'approved mental health service'. An approved mental health service is any service or premises that has been proclaimed by the Governor in Council under section 94 of the Mental Health Act as a place at which treatment can be provided to patients under the Act. Proclamation of entire campuses is done so that any decision about where patients should receive treatment within a public hospital can be made on clinical grounds, rather than restricting patients to psychiatric units.

This means that the ED of any public hospital with an acute psychiatric in-patient unit is part of an approved mental health service and medical practitioners working in the ED are taken to be employed by the approved mental health service for the purposes of the Act.

Procedure to Initiate Involuntary Treatment

If a person subject to a Request (Schedule 1) and Recommendation (Schedule 2) for involuntary treatment under the Act is taken to an approved mental health service or is Recommended at the approved mental health service (including in the ED), a medical practitioner employed by the approved mental health service must make an Involuntary Treatment Order for the person. This new step replaces the existing requirement in the Mental Health Act that a medical practitioner must 'admit' a person subject to a Request and Recommendation.

A key purpose of introducing the Involuntary Treatment Order is to clarify when the person subject to the order becomes an involuntary patient. This is important because any necessary immediate treatment can be given to the person (subject to new section 12AB of the Act). It also establishes the timing for the statutory review by the authorised psychiatrist, which must occur within 24 hours.

For a doctor working in the ED, this means that if he/she Recommends a person in the ED, they should also complete an Involuntary Treatment Order (Schedule 6). If a person is brought to the Emergency Department under a Request and Recommendation, a doctor should complete an Involuntary Treatment Order.

This new requirement should not detract from the existing relationship between Emergency Department staff and staff of the mental health service. Where it is usual practice to consult with the Crisis Assessment & Treatment (CAT) service or a psychiatric liaison team, then this should

continue. The mental health service should continue to provide advice and support about appropriate service interventions for mental health patients attending the ED.

Training about the amendments has been provided to senior staff within the mental health service. It is intended that staff of the mental health service should liaise with relevant staff within the ED to facilitate a smooth implementation of the amendments in the ED context.

A training copy of the Mental Health Act (incorporating the amendments) is available on the mental health website at: <http://www.health.vic.gov.au/mentalhealth/mh-act/resources>. The most relevant sections dealing with Involuntary Treatment Orders are new sections 9(5), 9B, 12, 12AA, 12AB and 12AC.

Request and Recommendation Forms

New Request (Schedule 1) and Recommendation (Schedule 2) forms will be required from 6 December 2004. Old forms will not be valid after that date. All stocks of old Request and Recommendation forms held in EDs should be destroyed.

Distribution of Forms

Quantities of the Involuntary Treatment Order, Request and Recommendation forms will be available via mental health services in late November 2004.

Further Information

Further information about the amendments can be obtained from the mental health website at: www.health.vic.gov.au/mentalhealth or by contacting the Manager of the local Area Mental Health Service.