

Psychosurgery

About your rights

In summary

If your psychiatrist or neurosurgeon recommends that you have psychosurgery you:

- will be provided with information about psychosurgery and can ask questions about it
- have a right to refuse psychosurgery
- have a right to obtain medical and legal advice
- have a right to obtain a second opinion from a psychiatrist about psychosurgery
- have a right to have a friend, family member or lawyer represent you
- have a right to withdraw your consent at any time before psychosurgery is performed
- can complain about your treatment.

You can ask a member of the treating team, a friend, a family member, a lawyer, an advocate or a community visitor to help you do these things.



Psychosurgery	2
Consent to psychosurgery	3
Psychosurgery Review Board	4
Complaints	7
Important contacts	8

Psychosurgery

About your rights

This booklet has been given to you because your psychiatrist has recommended that you would benefit from psychosurgery. It provides information about the treatment and your legal rights and entitlements under the *Mental Health Act 1986*. Your psychiatrist or a member of the treating team will talk to you about this information and answer your questions.

The information must be explained in a language or way that you can understand. This booklet may be translated into other languages. You can ask a member of the treating team if it is available in your preferred language.

Copies of the Mental Health Act are available at the mental health service.

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.

You can also get information from the Psychosurgery Review Board at:

Level 30, Marland House

570 Bourke Street, Melbourne 3000

Telephone: 8601 5270

Toll free: 1800 242 703

Psychosurgery is an operation on the brain and may be used to treat people with severe mental disorders that have not responded to other treatments. Examples of the disorders are major depression, obsessive-compulsive disorder and severe anxiety disorder, where these have caused extreme distress for the person suffering from the illness. Its use is limited and is subject to strict control by the Psychosurgery Review Board.

Before recommending psychosurgery, your psychiatrist and neurosurgeon will give you a thorough physical, psychiatric and psychological examination, taking into account your illness, its severity and your medical history. You may be referred to a major teaching hospital for further evaluation of your treatment.

Your psychiatrist or neurosurgeon will talk to you about psychosurgery and explain how it works and how it can help your illness. The psychiatrist or neurosurgeon will discuss possible side effects and alternative treatments, ask your views and answer any questions you might have.

When you are discussing psychosurgery with your psychiatrist or neurosurgeon, you can have a friend, a family member, a lawyer or an advocate with you for support. It is your right to have that person represent you before you consent to psychosurgery.

Advice and second opinions

It is your right to get legal and medical advice. It is also your right to get a second opinion about whether you need psychosurgery. Your case manager or psychiatrist can arrange this from within the mental health service or they can help you choose your own psychiatrist. If you choose a private psychiatrist you may have to pay a fee.

Consent to psychosurgery

You will only be considered for psychosurgery if you can give informed consent to the treatment. You have the right to refuse psychosurgery.

Informed consent

Informed consent is when you agree to have psychosurgery after you have been told:

- what psychosurgery involves
- the benefits, discomforts and risks of psychosurgery
- any beneficial alternative treatments
- the answers to any questions you have about psychosurgery and you have understood the answers

- whether the person recommending psychosurgery or the neurosurgeon who will perform the psychosurgery has any financial relationship with the service, hospital or clinic where the proposed psychosurgery will be performed
- your legal rights and other entitlements.

Before you decide whether you want to have psychosurgery, it is important that you are well informed. If you have any questions, you should ask your psychiatrist or neurosurgeon or seek advice from a friend, family member, lawyer or an advocate, or one of the organisations described at the end of this booklet.

If you agree to have psychosurgery, you will be asked to sign a form to say you have given informed consent.

Your psychiatrist will then apply to the Psychosurgery Review Board to obtain its consent. The Psychosurgery Review Board will make the final decision.

Withdrawing consent to psychosurgery

If you agree to have psychosurgery, but then change your mind, it is your right to withdraw your consent at any time and the psychosurgery will not proceed. If you want to withdraw your consent, you should talk to your psychiatrist or neurosurgeon. Remember that you can have a friend, a family member, a lawyer or an advocate with you for support or to represent you.

Psychosurgery Review Board

The Psychosurgery Review Board is an independent tribunal that decides whether psychosurgery should be performed on any person in the state of Victoria. The Psychosurgery Review Board must consent before any person can have psychosurgery. You cannot have psychosurgery if the Psychosurgery Review Board does not consent.

When the Psychosurgery Review Board receives an application from your psychiatrist for you to have psychosurgery, it will arrange a hearing to decide whether you should have psychosurgery.

Preparing for the hearing

The Psychosurgery Review Board will send you a notice advising the date, time and place of the hearing, at least 10 days before the hearing. Your advocate or representative (if you have one) and your primary carer will also be notified. It is your right to attend the hearing and present your case, and you are encouraged to do so. It is also your right to have a friend, a family member, a lawyer or an advocate represent you at the hearing. If you are unable to attend the hearing, you should tell the Board as soon as possible.

You or your representative will be given copies of the application and all supporting documents before the hearing. You should read the documents and think about what you are going to say to the Board. You may also want to give the Board written information. Your family and friends or someone you respect may wish to write letters or come to the hearing in support of the application.

If you have special needs, such as the need for an interpreter, you should discuss these with a member of the treating team or contact the Board. The Board will arrange an interpreter if necessary.

Organisations that might be able to help you with the application are described at the end of this booklet.

The Board hearing

The hearing will be held by either four or five Board members— a lawyer, one or two psychiatrists, a neurosurgeon and a nominee of the Victorian Council for Civil Liberties.

The hearing will be informal and private, unless the Board decides that it is in your best interest or in the public interest for the hearing to be open. Your psychiatrist will provide information at the hearing about why you should have psychosurgery. You and your representative will be able to ask questions and to give information. The neurosurgeon may be present if it is considered necessary by the Board.

The Board's decision

When the Psychosurgery Review Board has heard the evidence, it will make its decision. The Board must decide whether:

- you are capable of giving informed consent
- you have actually given informed consent
- the proposed psychosurgery has clinical merit and is appropriate
- the person proposing to perform the psychosurgery is properly qualified
- the hospital, service or clinic where the proposed psychosurgery would be performed is an appropriate place
- all other reasonable treatments have already been tried without sufficient and lasting benefit.

The Board consents to psychosurgery

If the Board is satisfied about the above matters, it will consent to you having psychosurgery and will specify:

- the name of the neurosurgeon authorised to perform the psychosurgery
- the nature of the psychosurgery to be performed
- the hospital, service or clinic where the psychosurgery is to be performed
- the time within which the psychosurgery is to be performed.

You and your representative will be given a written copy of the Board's consent.

The Board refuses consent to psychosurgery

If the Board is not satisfied about the above matters, it must refuse to give its consent and you cannot have psychosurgery.

You will be advised of the refusal and the reasons in writing.

Reports about the psychosurgery

If you have psychosurgery, your neurosurgeon must provide a report about the treatment to the Board within three months. Your psychiatrist must also provide reports on your progress within three months after the treatment and then within 12 months.

The Board will continue to review your progress on a regular basis, unless you object to this regular review. If you do not want the Board to review your progress, you should discuss this with a member of the treating team or contact the Board.

Complaints

You should be treated with dignity and respect and be protected from abuse when you receive treatment and care from the mental health service. If you are unhappy about any part of your treatment or care, you can complain. A good place to start is with your case manager, primary nurse or another member of the treating team, the complaints liaison officer or consumer consultant in the hospital or the Director of Psychiatry at the mental health service.

You can also complain directly to the Health Services Commissioner on telephone 8601 5200 or to the Chief Psychiatrist on 1300 767 299. If you need help with your complaint, you can ask someone you trust to assist you. This might be a member of the treating team, a friend, a family member, a lawyer or a community visitor.

Important contacts

The organisations you can contact for assistance and more information are listed below.

- The **Psychosurgery Review Board** is an independent tribunal that decides whether psychosurgery should be performed on any person in the state of Victoria.
Level 30, Marland House, 570 Bourke Street, Melbourne 3000
Telephone: 8601 5270 Toll free: 1800 242 703 Fax: 8601 5299
- The **Chief Psychiatrist** is a senior Department of Human Services official appointed under the Mental Health Act, with special responsibilities in relation to people receiving mental health services. These include the power to investigate complaints and other matters and to take necessary action.
50 Lonsdale Street, Melbourne 3000
Telephone: 9096 7571 Toll free: 1300 767 299
- The **Health Service Commissioner** is an independent commissioner who investigates and helps to resolve complaints by health care consumers about health services, including mental health services. The Commissioner can help patients access their health information.
30th Floor, 570 Bourke Street, Melbourne 3000
Telephone: 8601 5200 Toll free: 1800 136 066
- **Community visitors** are people who visit mental health services at least once a month to inquire into the adequacy of services and facilities for the treatment and care of patients, to investigate complaints and to report on their inquiries and investigations.
5th Floor, 436 Lonsdale Street, Melbourne 3000
Telephone: 9603 9500 Toll free: 1300 309 337
- The **Mental Health Legal Centre** is an independent legal service which specialises in mental health legal issues. It might be able

to arrange representation for you at Psychosurgery Review Board hearings or about other legal matters.

4th Floor, 520 Collins Street, Melbourne 3000

Telephone: 9629 4422 Toll free: 1800 555 887

- **Victoria Legal Aid** provides free legal advice about a range of issues. It may also provide legal assistance if you cannot afford a private solicitor and might be able to assist with legal representation at Psychosurgery Review Board hearings.

350 Queen Street, Melbourne 3000

Telephone: 9269 0234 Toll free: 1800 677 402

- The **Public Advocate** assists, advises and advocates for people with serious complaints about mental health and disability services and treatment.

5th Floor, 436 Lonsdale Street, Melbourne 3000

Telephone: 9603 9500 Toll free: 1300 309 337

- The **Ombudsman** investigates complaints about government departments.

3rd Floor, 459 Collins Street, Melbourne 3000

Telephone: 9613 6222 Toll free: 1800 806 314

- The **Mental Health Review Board** is an independent tribunal that hears appeals from involuntary patients, patients on restricted involuntary treatment orders and security patients who want to be discharged from their involuntary treatment status. It also automatically reviews these patients.

Level 30, Marland House,

570 Bourke Street, Melbourne 3000

Telephone: 8601 5270 Toll free: 1800 242 703 Fax: 8601 5299

Email: mhrb@mhrb.vic.gov.au

Web site: www.mhrb.vic.gov.au

You can also ask your case manager or any member of the treating team about other local organisations and support groups which might be able to help you.

Printed booklets in the *About your rights* series:

- Involuntary patients
- Restricted involuntary treatment orders
- Security patients
- Forensic patients
- Electroconvulsive therapy
- Major non-psychiatric treatment
- Non-custodial supervision orders

Other booklets in the *About your rights* series:

- Hospital orders
- Forensic (remand and interim disposition order) patients
- Continuing treatment (section 12A-12D) involuntary patients
- Assessment orders and diagnosis, assessment and treatment orders
- Psychosurgery

These and other booklets, including in other languages, are available online at www.health.vic.gov.au/mentalhealth.

Published by the Mental Health Branch, Victorian Government
Department of Human Services, Melbourne, Victoria, Australia.

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April 2007 (070212)