

Mental Health Act 2013

How it applies in real life.

Michael King

Introduction

- ▣ Some important definitions.
- ▣ Capacity assessment.
- ▣ The paperwork.
- ▣ ABC
- ▣ Questions.
- ▣ Summary.

Some Definitions

Lifted straight from the Act.

Meaning of Mental Illness (MHA 2013 S. 4)

- For the purposes of this Act, a person is taken to have a mental illness if he or she experiences, temporarily, repeatedly or continually:
 - a **serious** impairment of thought (which may include delusions); or
 - a **serious** impairment of mood, volition, perception or cognition.
- Nothing prevents the serious or permanent physiological, biochemical or psychological effects of alcohol use or drug-taking from being regarded as an indication that a person has a mental illness.

Some thoughts...

- ▣ A teenage girl states she doesn't understand why she can't stab her carers, because she wouldn't be upset if someone killed her. Does she have a mental illness?
- ▣ A man believes he must not allow his children to be vaccinated in case they develop autism. Does he have a mental illness?

What is NOT Mental Illness (MHA 2013 S. 4)

- ▣ Under this Act, a person is not to be taken to have a mental illness by reason **ONLY** of the person's:
 - Politics, religion, philosophy
 - Sexual preference, orientation or activity
 - Illegal conduct or antisocial activity
 - Economic or social status, culture or race
 - Intoxication or unconsciousness
 - Intellectual or physical disability
 - Acquired brain injury or dementia.

More thoughts...

- ▣ Can we say these people have a mental illness:
 - A man who is “very drunk” is brought to your rural hospital stating he would be better off dead.
 - A person known to be a user of “Ice” says they can feel bugs crawling around their brain.
 - A lady in the local nursing home states she can see her long-dead husband moving around her room.

Treatment

(MHA 2013 S. 6)

- ▣ For the purposes of this Act, **treatment** is the professional intervention necessary to –
 - prevent or remedy mental illness; or
 - manage and alleviate, where possible, the ill effects of mental illness; or
 - reduce the risks that persons with mental illness may, on that account, pose to themselves or others; or
 - monitor or evaluate a person's mental state.



Capacity

Capacity

(MHA 2013 S. 7)

- ▣ Is the ability to make decisions for oneself.
- ▣ Is assumed unless there is compelling evidence to the contrary.
- ▣ Is decision-specific: that is, can THIS person make THIS decision at THIS time.
- ▣ Should be formally assessed if there is any doubt.

Capacity

- ▣ Can the person do ALL of the following:
 - Understand and Retain the pertinent facts and choices involved.
 - Weigh up or understand the consequences of the various choices.
 - Communicate their decision.

- ▣ If not, document a formal capacity assessment.

Capacity

- ▣ An example:
 - A young man who has had a fair amount to drink has been briefly knocked out in a fight. He has a large scalp laceration that is bleeding freely.
 - He repeatedly asks the same questions and is unable to repeat instructions you give him.
 - He refuses to have the wound treated and insists on going home.

- ▣ Does he have capacity to make that decision?

Capacity

- ▣ Remember:
 - We do not have to agree with a rational person's informed and considered decision.
 - The issue is whether or not it is an informed and considered decision.

- ▣ We all have the right to be wrong.



ASSESSMENT ORDER

Mental Health Act 2013
Sections 23 - 35

THCI: (Patient Id): _____

Family Name: _____ Given Name: _____

DOB: ____/____/____ Gender: M F TG/IT

Address: _____

Phone: _____ Mob: _____

AFFIX STICKER HERE



Notes on assessing decision-making capacity

An **adult** is taken to have the capacity to make a decision about his or her own assessment and/or treatment UNLESS a person or body considering that capacity under the Act is satisfied that:

- The adult is unable to make the decision because of an impairment of, or disturbance in, the functioning of the mind or brain AND
- The adult is unable to:
 - Understand information relevant to the decision OR
 - Retain information relevant to the decision OR
 - Use or weigh information relevant to the decision OR
 - Communicate the decision (whether by gesture, speech or other means).

A **child** is taken to have the capacity to make a decision about his or her own assessment or treatment ONLY IF a person or body considering that capacity under the Act is satisfied that:

- The child is sufficiently mature to make the decision AND
- Notwithstanding any impairment or, or disturbance in the functioning of the child's mind or brain, the child is able to:
 - Understand information relevant to the decision AND
 - Retain information relevant to the decision AND
 - Use or weigh information relevant to the decision AND
 - Communicate the decision (whether by gesture, speech or other means).

An adult or child may be taken to understand information relevant to a decision if it reasonably appears that he or she is able to understand an explanation of the nature and consequences of the decision given in a way that is appropriate to his or her circumstances (whether by words, signs or other means).

An adult or child may be taken to be able to retain information relevant to a decision even if he or she may only be able to retain the information briefly.

Information relevant to a decision includes information on the consequences of making the decision one way or the other, deferring the making of the decision, and failing to make the decision.

Questions to be asked when assessing a person's decision making capacity:

- Is the person's decision at odds with their usual preferences, with the person's best interests or with what most people would ordinarily do?
 - Why does the person think that they are in hospital?
 - Why does the person think that assessment and/or treatment is being recommended?
- What is the person's understanding of the assessment and / or treatment that is proposed?
 - Are the person's responses to information that has been given consistent?
 - Can the person repeat back the information that they have been given?
- How has the person reached the decision and does the way that they have reached the decision make sense?
 - What does the person's understanding of the assessment and/or treatment that is proposed?
 - What does the person think will happen if they are assessed and / or treated?
 - What does the person think will happen if they are not assessed and / or treated?
- Would the person stay in hospital or agree to be assessed and / or treated if they had the choice?

CHIEF CIVIL PSYCHIATRIST APPROVED FORM 2A



DECISION MAKING CAPACITY- ADULTS

Mental Health Act 2013
Section 7

THCI: (Patient Id): _____
 Family Name: _____ Given Name: _____
 DOB: ____/____/____ Gender: M F TG/IT
 Address: _____
 Phone: _____ Mob: _____

AFFIX STICKER HERE

RECORD OF DETERMINATION – DECISION MAKING CAPACITY - ADULTS

TREATING MEDICAL PRACTITIONER TO COMPLETE

The patient or prospective patient is the person who is being assessed for capacity.

Patient or prospective patient's name:

Treating medical practitioner's name:

For the purposes of the Mental Health Act 2013, an adult is taken to have the capacity to make a decision about his or her own assessment or treatment unless a person or body considering that capacity under the Act is satisfied that he or she is unable to make a decision because of an impairment of, or disturbance in, the functioning of the mind or brain, and he or she is unable to understand:

- Information relevant to the decision, or
- Retain information relevant to the decision, or
- Use or weigh information relevant to the decision, or
- Communicate the decision (whether by gesture, speech or other means).

An adult may be taken to understand information relevant to a decision if it reasonably appears that he or she is able to understand an explanation of the nature and consequences of the decision given in a way that is appropriate to his or her circumstances (whether by words, signs or other means).

An adult may be taken to be able to retain information relevant to a decision even if he or she may only be able to retain the information briefly.

Information relevant to a decision includes information on the consequences of making the decision one way or the other, deferring the making of the decision, and failing to make the decision.

I am satisfied that the patient named above does not have the capacity to make a decision, under the Mental Health Act 2013, about his or her own:

Assessment OR Treatment

Specifically, I confirm that the patient named above:

Is unable to make the decision because of an impairment of, or disturbance in, the functioning of the mind or brain **AND**

Is unable to understand relevant to the decision OR

Is unable to retain relevant to the decision OR

Is unable to use or weigh information relevant to the decision OR

Is unable to communicate the decision (whether by gesture, speech or other means).

Reasons for determination that the patient named above does not have the capacity to make a decision about his or her own assessment or treatment:

Steps that have been taken to assist the patient named above to make a decision about his or her own assessment or treatment:

Treating medical practitioner's signature: _____

Date and time of determination: Date: ____/____/____ Time: ____:____ AM/PM

COPY TO: LOC OTHER: If record is about the capacity to make a decision about assessment – append to Assessment Order
 If record is about the capacity to make a decision about treatment – append to Treatment Order

Capacity

- ▣ Under the Act a child is not automatically considered to have capacity, however if the child is considered sufficiently mature to make the decision, the same standard of assessment of capacity applies as for adults. (Gillick).
- ▣ For the purposes of the Act a child is a person who has not attained the age of 18 years.

CHIEF CIVIL PSYCHIATRIST APPROVED FORM 2B



**DECISION MAKING
CAPACITY-
CHILDREN**

Mental Health Act 2013
Section 7

THCI: (Patient Id): _____
 Family Name: _____ Given Name: _____
 DOB: ____/____/____ Gender: M F TG/IT
 Address: _____
 Phone: _____ Mob: _____

AFFIX STICKER HERE

RECORD OF DETERMINATION – DECISION MAKING CAPACITY - CHILDREN

TREATING MEDICAL PRACTITIONER TO COMPLETE

The patient or prospective patient is the person who is being assessed for capacity.

Patient or prospective patient's name:

Treating medical practitioner's name:

For the purposes of the Mental Health Act 2013, a child is taken to have the capacity to make a decision about his or her own assessment or treatment ONLY if a person or body considering that capacity under the Act is satisfied that the child is sufficiently mature to make the decision, and notwithstanding any impairment or, or disturbance in the functioning of the child's mind or brain, the child is able to:

- Information relevant to the decision, and
- Retain information relevant to the decision, and
- Use or weigh information relevant to the decision, and
- Communicate the decision (whether by gesture, speech or other means).

A child may be taken to understand information relevant to a decision if it reasonably appears that he or she is able to understand an explanation of the nature and consequences of the decision given in a way that is appropriate to his or her circumstances (whether by words, signs or other means).

A child may be taken to be able to retain information relevant to a decision even if he or she may only be able to retain the information briefly.

Information relevant to a decision includes information on the consequences of making the decision one way or the other, deferring the making of the decision, and failing to make the decision.

I am **NOT SATISFIED** that the patient named above has the capacity to make a decision, under the *Mental Health Act 2013*, about his or her own:

Assessment OR Treatment

Specifically, I confirm that I am:

Not satisfied that the patient named above is sufficiently mature to make the decision OR

Not satisfied that the patient named above is able to understand information relevant to the decision, and retain relevant to the decision, and use or weigh information relevant to the decision, and communicate the decision (whether by gesture, speech or other means).

Reasons for not being satisfied that the patient named above has the capacity to make a decision about his or her own assessment or treatment:

Steps that have been taken to assist the patient named above to make a decision about his or her own assessment or treatment:

Treating medical practitioner's signature: _____

Date and time of determination: Date: ____/____/____ Time: ____:____ AM/PM

COPY TO: LOC **OTHER:** If record is about the capacity to make a decision about assessment – append to AO If record is about the capacity to make a decision about treatment – append to TO



Protective Custody

Protective Custody (MHA 2013 S. 18-21)

- ▣ An MHO or police officer may take a person into protective custody if the MHO or police officer reasonably believes that –
 - the person has a mental illness; and
 - the person should be examined to see if he or she needs to be assessed against the assessment criteria or the treatment criteria; and
 - the person's safety or the safety of other persons is likely to be at risk if the person is not taken into protective custody.

Mental Health Officers

- ▣ All police and ambulance personnel are automatically MHOs.
- ▣ Nurses can apply to be MHOs but must complete a learning package online.

Protective Custody

- ▣ A person in Protective Custody must:
 - Be taken to an Approved Assessment Centre
 - Be given a statement of their rights
 - Be examined by a medical officer within 4 hours

- ▣ The 4 hours begins at the time of arrival at the Approved Assessment Centre.

Duty of Care

- ▣ Is based on common or tort law, not the Mental Health Act.
- ▣ Is owed to all within our professional sphere of influence.
- ▣ Also relies on assessment of capacity.
- ▣ Allows us to do what is necessary to prevent harm to the patient.
- ▣ Is open-ended PROVIDED the capacity of the patient is reassessed frequently.

Some thoughts...

- ▣ Protective Custody lasts as long as is necessary to get the person to the Approved Assessment Centre.
- ▣ Transport should be as direct as possible but the clock doesn't start until they get to the Assessment Centre.

More thoughts...

- ▣ Protective Custody should be reserved for those people in whom there is a reasonable concern for mental illness causing their presentation.
- ▣ Protective Custody allows for treatment of the patient as considered warranted by their treating team, both prior to and upon arrival at the Assessment Centre.



PROTECTIVE CUSTODY

Mental Health Act 2013
Sections 17 – 21 and Schedule 2

THCI: (Patient Id): _____

Family Name: _____ Given Name: _____

DOB: ____/____/____ Gender: M F TG/IT

Address: _____

Phone: _____ Mob: _____

AFFIX STICKER HERE

PART A: ENTRY TO PROTECTIVE CUSTODY

MHO / POLICE OFFICER WHO HAS TAKEN PERSON INTO PROTECTIVE CUSTODY TO COMPLETE

Meaning of Mental Illness

A person is taken to have a mental illness if s/he experiences, temporarily, repeatedly or continually, a serious impairment of thought (which may include delusions), or a serious impairment of mood, volition, perception or cognition.

Assessment Criteria

The assessment criteria are:

- (a) the person has, or appears to have, a mental illness that requires or is likely to require treatment for:
- (i) the person's health or safety, or
 - (ii) the safety of other persons, and
- (b) the person cannot be properly assessed with regard to the mental illness or the making of a treatment order except under the authority of the assessment order, and
- (c) the person does not have decision making capacity.

Treatment Criteria

The treatment criteria are:

- (a) the person has a mental illness
- (b) without treatment, the mental illness will, or is likely to, seriously harm:
- (i) the person's health or safety, or
 - (ii) the safety of other persons, and
- (c) the treatment will be appropriate and effective in terms of the outcomes referred to in section 6(1) of the Act, and
- (d) the treatment cannot adequately be given except under a treatment order, and
- (e) the person does not have decision making capacity.

A person should only be escorted to the Roy Fagan Centre or Millbrook Rise Centre if this has been arranged in advance.

In taking a person into protective custody, an MHO or Police Officer may take possession of and safeguard any medication, physical aid or other thing that the custodian or escort reasonably believes is or may be necessary to the patient's health, safety or welfare, or which may be relevant to the patient's examination, assessment, treatment or care.

Name of person being taken into protective custody (if known): _____

Custodian's status and identity (tick the appropriate box):

- MHO. ID Card/Payroll Number: _____
- Police Officer. Name and Badge Number: _____

I reasonably believe:

- That the person named above has a mental illness AND
- That the person named above should be examined to see if he or she needs to be assessed against the assessment criteria or treatment criteria AND
- That the safety of the person named above, or the safety of others, is likely to be at risk, or was likely to be at risk, if the person is or was not taken into protective custody.

Reasons for this belief (include details of the person's behaviour – whether reported or directly observed, whether the person appears or appeared to be under the influence of drugs or alcohol, and any other relevant information. Attach additional information if needed):

Details of medication, physical aids, prescriptions or other things taken possession of and safeguarded. Attach additional information if needed:

Date/time person taken into custody: Date: ____ / ____ / ____ Time: ____:____ (24 hrs)

Date/time of arrival at assessment centre: Date: ____ / ____ / ____ Time: ____:____ (24 hrs)

Name of assessment centre to which the person was taken:

- NWRH (Burnie) LGH RHH Roy Fagan Centre Millbrook Rise Centre

Custodian's signature: _____

COPY TO: Person taken into protective custody (on release from protective custody) MHO/Police Officer to whom custody is handed over / medical practitioner at the approved assessment centre CCP LOC If person being released is a child/if there is consent – parent/support person/representative OTHER: Person taken into protective custody to be given a Statement of Rights on arrival at approved assessment centre by staff at the centre Person taken into protective custody to have rights explained to him/her in a language and form that he/she can understand

CONTACT DETAILS: CCP: Phone: (03) 6166 0781 Fax No: (03) 6230 7739 Email: chief.psychiatrist@dhhs.tas.gov.au

CHIEF CIVIL PSYCHIATRIST APPROVED FORM 4



PROTECTIVE CUSTODY

Mental Health Act 2013
Sections 17 – 21 and Schedule 2

THCI: (Patient Id): _____
 Family Name: _____ Given Name: _____
 DOB: ____/____/____ Gender: M F TG/IT
 Address: _____
 Phone: _____ Mob: _____

AFFIX STICKER HERE

PART B: MEDICAL PRACTITIONER EXAMINATION

MEDICAL PRACTITIONER TO COMPLETE

On arrival at an approved assessment centre, the controlling authority of the centre must have the person examined by a medical practitioner, within four hours of the person's arrival at the centre, to see if the person needs to be assessed against the assessment or treatment criteria.

Name of person examined (if known): _____

Medical practitioner's name: _____

I have examined the person named above to see whether he/she needed to be assessed against the assessment criteria whilst he or she was in protective custody. As a result of that examination I have determined that the person (tick relevant box):

- Does not meet the criteria for being placed on an Assessment or Treatment Order
- Meets the criteria for being placed on an Assessment or Treatment Order

Date and time of examination: Date: ____ / ____ / ____ Time: ____:____ (24 hours)

Medical practitioner's signature: _____

PART C: RELEASE FROM PROTECTIVE CUSTODY

MENTAL HEALTH OFFICER / POLICE OFFICER TO COMPLETE

An Mental Health Officer (MHO) or Police Officer who has a person in protective custody must release the person from the protective custody if, while the person is in that custody:

- Informed consent is given to assess or treat the person, or
- An Assessment Order or Treatment Order is made in respect of the person, or
- The MHO or Police Officer reasonably forms the belief that the person no longer meets the criteria for being taken into protective custody, or
- Four (4) hours after the person's arrival at the approved assessment centre, if the person is still in the protective custody at the expiry of that period and has not been examined, and none of the things referred to above have occurred.

The protective custody criteria are that:

- (a) The person has a mental illness; and
- (b) The person should be examined to see if he or she needs to be assessed against the assessment or treatment criteria; and
- (c) The person's safety or the safety of other persons is likely to be at risk if the person is not taken into protective custody.

Name of person being released from protective custody (if known): _____

Custodian's status and identity (tick the appropriate box):

- MHO. Name/ID Card/Payroll Number: _____
- Police Officer. Name and Badge Number: _____

I have released the person named above from protective custody for the following reason(s):

- A - Informed consent was given to assess or treat the person
- B - A medical practitioner examined the person and made an Assessment Order
- C - A Treatment Order was made for the person
- D - I reasonably formed the belief that the person no longer met the criteria for being taken into protective custody
- E - A medical practitioner at the approved assessment centre examined the person and decided that they did not meet the criteria for being placed on an Assessment or Treatment Order (see above)
- F - The person had been at the approved assessment centre for four hours and none of the things noted above had occurred

Date and time of release: Date: ____ / ____ / ____ Time: ____:____ (24 hours)

MHO/Police Officer's signature: _____

COPY TO: Person being released CCP LOC If person being released is a child/if there is consent – parent/support person/representative

CONTACT DETAILS: CCP: Phone: (03) 6166 0781 Fax No: (03) 6230 7739 Email: chief.psychiatrist@dhhs.tas.gov.au



CHIEF CIVIL PSYCHIATRIST APPROVED FORM 4



PROTECTIVE CUSTODY

Mental Health Act 2013
Sections 17 – 21 and Schedule 2

THCI: (Patient Id): _____
 Family Name: _____ Given Name: _____
 DOB: ____/____/____ Gender: M F TG/IT
 Address: _____
 Phone: _____ Mob: _____

AFFIX STICKER HERE



PART D: HANDOVER OF PROTECTIVE CUSTODY

MHO / POLICE OFFICER TO COMPLETE IF CUSTODY IS HANDED OVER

Name of person in protective custody (if known): _____

A custodian may, as circumstances require, transfer physical control of a person in custody to another MHO or police officer.

Protective Custody is not taken to have been interrupted or terminated because physical control of the person has been handed over from one MHO or Police Officer to another such officer

An MHO or Police Officer who takes a person into protective custody may ask any MHO at the approved assessment centre to take over the person's protective custody.

An MHO at the approved assessment centre who is asked to take over a person's protective custody must comply with the request unless it would be unsafe in the circumstances to do so.

Status and identity of MHO/Police Officer HANDING OVER custody (tick the appropriate box):

MHO. Name/ID Card/Payroll Number: _____

Police Officer. Name and Badge Number: _____

Status and identity of MHO/Police Officer ACCEPTING custody (tick the appropriate box):

MHO. Name/ID Card/Payroll Number: _____

Police Officer. Name and Badge Number: _____

Date and time custody is handed over:

Date: ____ / ____ / ____ Time: ____:____ (24 hours)

Signature of custodian HANDING OVER custody: _____

Signature of custodian ACCEPTING custody: _____

Have any items taken possession of and safeguarded been handed over?

Yes. Details of items handed over:

No. Reasons for items not being handed over:

COPY TO: Person to whom custody is handed over / medical practitioner at the approved assessment centre

	Duty of Care	Protective Custody
When to invoke:	Concern over patient safety for any reason.	Concern over patient safety due to mental illness.
Purpose:	Allow necessary treatment until patient has capacity to consent or decline.	Hold pending transfer to Assessment Centre.
Decision-Making Capacity:	Lacking, but should be regularly reassessed.	Appears to be lacking.
Duration:	Open, as long as decision-making capacity lacking.	4 hours after arrival at the Assessment Centre.
Invoked by:	Any staff caring for the patient.	MHO, including Police and Paramedics.
Documentation	Clear explanation in patient's medical record.	Form 4, Protective Custody.
Caveats	Treatment should only be that immediately necessary.	Should not be invoked just for "bad behaviour".



Assessment

Assessment

- ▣ An Assessment Order can be made by any medical practitioner.
- ▣ The Assessment Order allows for a person to be assessed to determine if they meet the assessment criteria.

Assessment Criteria

- The person has, or appears to have, a mental illness that requires or is likely to require treatment for –
 - the person's health or safety; or
 - the safety of other persons;
 - AND
- The person cannot be properly assessed with regard to the mental illness or the making of a treatment order except under the authority of the assessment order;
AND
- The person does not have decision-making capacity.

Assessment Order

- ▣ An Assessment Order allows for assessment of a person without their consent.
- ▣ The medical practitioner signing the Order must have personally examined the patient immediately before or within 72 hours of making the Order.
- ▣ Once on an Assessment Order a person must be assessed by an approved medical practitioner within 24 hours

CHIEF CIVIL PSYCHIATRIST APPROVED FORM 6



ASSESSMENT ORDER

Mental Health Act 2013
Sections 23 - 35

THCI: (Patient Id): _____
 Family Name: _____ Given Name: _____
 DOB: ____/____/____ Gender: M F TG/IT
 Address: _____
 Phone: _____ Mobile: _____

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PART A: ASSESSMENT ORDER

A medical practitioner may make an Assessment Order (AO) in respect of a person in, and only in, the following circumstances:

The medical practitioner must have examined the person
 The examination must have been done in the 24 hour period immediately before the assessment order is made

The medical practitioner must be satisfied from the examination that the person needs to be assessed against the assessment criteria
 The medical practitioner must be satisfied that a reasonable attempt to have the person assessed, with informed consent, has failed or that it would be futile or inappropriate to make such an attempt.

A medical practitioner may make an AO authorising a patient's admission to and, if necessary, detention in an approved hospital.

However, a medical practitioner may not make an AO authorising a patient who is a child to be admitted to and, if necessary, detained in an approved hospital unless the practitioner is satisfied that the hospital has facilities and staff for the patient's assessment and that the hospital is, in the circumstances, the most appropriate place to accommodate the patient.
 Assessment at the Roy Fagan Centre or Millbrook Rise centre should be recommended only if there is a prior arrangement to this effect.

An AO takes effect as soon as it is signed by the medical practitioner who makes it and ceases to have effect 24 hours after it is made if, by then, it has not been discharged AND has either not been affirmed or has been affirmed but not extended in operation.

I, _____
 (Medical Practitioner - name in full - use BLOCK letters)

examined

(Prospective patient - name in full - use BLOCK letters)

on the _____ day of _____ 20____ at _____
 (day) (month) (year) (time - 24 hr)

I affirm the following matters:

1. I am satisfied from the examination that the prospective patient needs to be assessed against the assessment criteria.
2. I am also satisfied that [strike out alternative that is not applicable]:
 - (a) a reasonable attempt to have the prospective patient assessed with informed consent has failed
 - (b) it would be futile or inappropriate to attempt to have the prospective patient assessed with informed consent.

The assessment setting for the prospective patient is:

- NWRH (Burnie) LGH RHH Roy Fagan Centre* Millbrook Rise Centre*
 Other _____

The Order does/does not authorise the patient's admission to and detention in an approved hospital.

Made and signed this _____ day of _____ 20____ at _____
 (day) (month) (year) (time - 24 hr)

Signature: _____

COPY TO: Patient AMP who is likely to do the assessment Controlling authority of the approved facility where the patient is to be assessed LOC If patient is a child or if there is consent - patient's parent/support person/representative

OTHER: Statement of Rights Explanation to patient in language and form that patient can understand

CHIEF CIVIL PSYCHIATRIST APPROVED FORM 6**ASSESSMENT ORDER**

Mental Health Act 2013
Sections 23 - 35

THCI: (Patient Id): _____

Family Name: _____ Given Name: _____

DOB: ____/____/____ Gender: M F TG/IT

Address: _____

Phone: _____ Mobile: _____

AFFIX STICKER HERE**PART B: INSTRUMENT OF AFFIRMATION**

Once an Assessment Order (AO) has taken effect, the patient subject to the Order must be independently assessed within 24 hours unless the Order is sooner discharged.

The assessment will be independent if it is done by an Approved Medical Practitioner (AMP) other than the Medical Practitioner who applied for or made the Order.

On assessing the patient, the AMP must immediately affirm or discharge the Assessment Order.

To affirm the AO, the AMP must be satisfied that:

The patient meets the assessment criteria, and

The order has not already been discharged.

The assessment criteria are set out at section 25 of the Act.

If the AMP affirms the AO, he or she may simultaneously extend its operation, once, by a period not exceeding 72 hours commencing from the time of affirmation.

I, _____
(Approved Medical Practitioner - name in full - use BLOCK letters)

independently assessed

(Patient - name in full - use BLOCK letters)

on the _____ day of _____ 20 ____ at _____:
(day) (month) (year) (time - 24 hr)

I certify that:

- I am a different medical practitioner to the medical practitioner who applied for, or made, the Assessment Order to which the patient is subject, and
- The Assessment Order to which the patient is subject has not already been discharged, and
- The patient meets the assessment criteria, as follows:

(a) The patient has, or appears to have, a mental illness that requires or is likely to require treatment for the person's health or safety or the safety of other persons

Reasons: _____

(b) The patient cannot be properly assessed with regard to the mental illness or the making of a treatment order except under the authority of the assessment order

Reasons: _____

(c) The person does not have decision making capacity

Reasons: _____

I affirm the Assessment Order and either [strike out alternative that is not applicable]:

1. Extend the Order's operation by a period not exceeding _____ hours with effect from this _____ day of _____ 20 ____ at _____:____, or

2. Do not extend the Order's operation.

Unless the Assessment Order is sooner discharged or a Treatment Order is made, the Order will cease to have effect on the

on the _____ day of _____ 20 ____ at _____:
(day) (month) (year) (time - 24 hr)

Signature: _____

COPY TO: Patient Medical practitioner who made the Order CCP Tribunal If patient is to be, or is likely to be, assessed in an approved facility - controlling authority of that facility LOC If patient is a child or if there is consent - patient's parent/support person/representative **OTHER:** Explanation to patient in language and form that patient can understand

CONTACT DETAILS: MHT: Phone: (03) 6165 7491 Email: mht.applications@justice.tas.gov.au
CCP: Phone: (03) 6166 0781 Fax No: (03) 6230 7739 Email: chief.psychiatrist@dhhs.tas.gov.au

CHIEF CIVIL PSYCHIATRIST APPROVED FORM 6**ASSESSMENT ORDER**

Mental Health Act 2013
Sections 23 - 35

THCI: (Patient Id): _____

Family Name: _____ Given Name: _____

DOB: ____/____/____ Gender: M F TG/IT

Address: _____

Phone: _____ Mobile: _____

AFFIX STICKER HERE**PART C: DISCHARGE PAPER**

An Assessment Order may be discharged at any time for sufficient cause by the medical practitioner who made the Order, by any Approved Medical Practitioner, or by the Tribunal.

A medical practitioner has sufficient cause to discharge an Assessment Order if he or she is satisfied, after examining the patient or on other reasonable grounds, that the patient does not meet the assessment criteria.

The assessment criteria are set out in section 25 of the Act.

I, _____
(Medical Practitioner - name if full - use BLOCK letters)

am satisfied [strike out alternative that is not applicable]:

(a) after examining

_____ (Patient - name if full - use BLOCK letters)

on the _____ day of _____ 20 ____ at ____ : ____
(day) (month) (year) (time - 24 hr)

(b) on the following other reasonable grounds:

that the patient does not meet the assessment criteria.

Discharged this _____ day of _____ 20 ____ at ____ : ____
(day) (month) (year) (time - 24 hr)

Signature: _____

COPY TO: Patient CCP Tribunal If the patient has not been independently assessed by an Approved Medical Practitioner – the Approved Medical Practitioner who was expected to do the assessment or controlling authority of the facility in which the assessment was to have been done LOC If patient is a child or if there is consent - patient's parent/support

OTHER: Explanation to patient in language and form that patient can understand

CONTACT DETAILS: MHT: Phone: (03) 6165 7491 Email: mht.applications@justice.tas.gov.au

CCP: Phone: (03) 6166 0781 Fax No: (03) 6230 7739 Email: chief.psychiatrist@dhhs.tas.gov.au

Some thoughts...

- ▣ Once the Assessment Order is signed, the patient becomes an Involuntary patient under the Act.
- ▣ As Involuntary status limits treatment, particularly medication that may be offered the patient, and mandates review by a psychiatrist within 24 hours, Protective Custody is probably preferable to use in outlying areas.

Urgent Circumstances Treatment

- ▣ Once a patient is made involuntary by being placed on an Assessment Order, they cannot be given any psychiatric treatment, including medication to treat their mental symptoms, without the authority of the Chief Civil Psychiatrist or their delegate, the Director of Psychiatry or the on-call psychiatrist.
- ▣ This does not apply to treatment for physical conditions, nor to true emergency treatment.

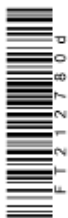
CHIEF CIVIL PSYCHIATRIST APPROVED FORM 8



URGENT CIRCUMSTANCES TREATMENT (INVOLUNTARY)
Mental Health Act 2013
Section 55

THCI: (Patient Id): _____
Family Name: _____ Given Name: _____
DOB: ____/____/____ Gender: M F TG/IT
Address: _____
Phone: _____ Mobile: _____

AFFIX STICKER HERE



AUTHORISATION OF URGENT CIRCUMSTANCES TREATMENT

APPROVED MEDICAL PRACTITIONER TO COMPLETE

An involuntary patient may be given treatment (urgent circumstances treatment) without informed consent or Tribunal authorisation if an approved medical practitioner (AMP) authorises the treatment as being urgently needed in the patient's best interests.

An AMP may authorise treatment as being urgently needed in the patient's best interests only if the AMP is of the opinion that achieving the necessary treatment outcome would be compromised by waiting for the urgent circumstances treatment to be authorised by the Tribunal (or by a member of the Tribunal on an interim basis).

The AMP may give the authorisation if and only if, he or she has concluded from an examination that:

- (a) The patient has a mental illness that is generally in need of treatment, and
- (b) The urgent circumstances treatment is necessary for the patient's health or safety or the safety of other persons, and
- (c) The urgent circumstances treatment is likely to be both effective and appropriate in terms of the outcomes referred to in section 6(1) of the Act, and
- (d) Achieving the necessary treatment outcome would be compromised by waiting for the urgent circumstances treatment to be authorised by the Tribunal (or by a member of the Tribunal on an interim basis).

Treatment is defined in section 6(1) of the Act to mean the professional intervention necessary to prevent or remedy mental illness; or manage and alleviate, where possible, the ill effects of mental illness; or reduce the risk that persons with mental illness may, on that account, pose to themselves or others; or monitor or evaluate a person's mental state.

The authorisation may be given by any means of communication the AMP considers appropriate in the circumstances but, if it is given orally, the AMP is to confirm it in writing using this form.

If the authorisation is given, the AMP has the following obligations:

- To ensure that the patient is advised of the authorisation as soon as possible after it is given
- To give a copy of the authorisation to the Chief Civil Psychiatrist and the Tribunal
- To give a copy of the authorisation to the patient (together with a statement of rights)
- To place a copy of the authorisation on the patient's clinical record

If the authorisation is given, the patient may be given the urgent circumstances treatment until whichever of the following first occurs:

- The treatment is completed
- The AMP, for any reason he or she thinks sufficient, stops the treatment
- The 96 hour period immediately following the giving of the authorisation expires
- The assessment order, treatment order or interim treatment order ceases or is discharged
- The authorisation is set aside by the Tribunal

I, _____ (Approved Medical Practitioner)

(name in full – use block letters)

examined _____ (Patient)

(name in full – use block letters)

on the _____ day of _____ 20____ at _____:____

(day) (month) (year) (time – 24 hr)

and have concluded from the examination that:

1. The patient has a mental illness that is generally in need of treatment, and
2. The urgent circumstances treatment is necessary for:
 - (a) the patient's health or safety, or
 - (b) the safety of other persons, and
3. The urgent circumstances treatment is likely to be both effective and appropriate in terms of the outcomes referred to in section 6(1) of the Act, and
4. Achieving the necessary treatment outcome would be compromised by waiting for the urgent circumstances treatment to be authorised by the Tribunal (or by a member of the Tribunal on an interim basis)

I hereby authorise the following treatment as being urgently needed in the patient's best interests:

Date and time treatment authorised:

Date: ____/____/____ Time: ____/____/____ (24 Hours)

Signature:

VERBAL ADVICE TO THE FOLLOWING: Patient

COPY TO: Patient CCP Tribunal LOC If patient is a child or if there is consent - patient's parent/support person/representative

OTHER: Statement of rights to patient Explanation to the patient in a language and form that the patient can understand

CONTACT: MHT: Phone: (03) 6165 7491 mhsocialisation@justice.tas.gov.au CCP: Phone: (03) 6166 0781 chiefcivilpsychiatrist@dhhs.tas.gov.au



Restraint

Restraint

- ▣ General principle: **the least restriction for the shortest time.**
- ▣ **These principles also apply to patients being held under Duty of Care but the specifics of the MHA do not.**

Restraint

- ▣ **Prescribed reasons** for placing a patient under restraint:
 - to facilitate the patient's treatment; or
 - to ensure the patient's health or safety; or
 - to ensure the safety of other persons; or
 - to effect the patient's transfer to another facility, whether in this State or elsewhere.

Restraint

- ▣ Nothing in this section is to be taken as conferring any kind of authority for a patient to be placed under restraint as a means of punishment or for reasons of administrative or staff convenience.

Restraint

- ▣ However, nothing in this section applies to or prevents the emergency short-term *physical* restraint of a patient so as to:
 - prevent the patient from harming himself or herself or others; or
 - prevent the patient from damaging, or interfering with the operation of, a facility or any equipment; or
 - break up a dispute or affray involving the patient; or
 - ensure, if he or she is uncooperative, the patient's movement to or attendance at any place for a lawful purpose.

Restraint

- ▣ Three main methods, all aimed at limiting the patient's movements:
 - Physical: other people holding the patient, such as a five person take-down.
 - Mechanical: the use of devices such as manacles or ties.
 - Chemical: administration of medication, such as sedatives and/or antipsychotics WITH THE PRIMARY AIM OF CONTROLLING THEIR BEHAVIOUR.

Restraint

▣ NOTE:

- Administering medication to an acutely agitated patient with the primary aim of easing their agitation is NOT chemical restraint.

Restraint

- ▣ Issues of restraint raised in the MHA 2013 only apply to involuntary patients under the Act.
- ▣ Patients under Protective Custody are NOT considered involuntary under the Act.

Some thoughts...

- ▣ Restraint must always be considered a high risk situation, with appropriate safeguards in place. These include close observation, available resuscitation facilities, and careful documentation.
- ▣ Some rural settings may lack sufficient staff to safely restrain a person without jeopardising their other services. The police should be called to assist.
- ▣ The safest option may be to call for retrieval of the patient to the Assessment Centre.

CHIEF CIVIL PSYCHIATRIST APPROVED FORM 10



**RESTRAINT
(INVOLUNTARY)**

Mental Health Act 2013
Sections 57 - 58

THCI: (Patient Id): _____
 Family Name: _____ Given Name: _____
 DOB: ____/____/____ Gender: M F TG/IT
 Address: _____
 Phone: _____ Mobile: _____

AFFIX STICKER HERE

PART A: AUTHORISATION OF RESTRAINT

CHIEF CIVIL PSYCHIATRIST / DELEGATE / MEDICAL PRACTITIONER / APPROVED NURSE TO COMPLETE

The Chief Civil Psychiatrist (CCP) (or a delegate), a medical practitioner or an approved nurse may authorise physical restraint of an adult.

Only the CCP or a delegate may authorise chemical or mechanical restraint, or the physical restraint of a child.

Chemical restraint means medication given primarily to control a person's behaviour, not to treat a mental illness or physical condition.

Mechanical restraint means a device that controls a person's freedom of movement.

Physical restraint means bodily force that controls a person's freedom of movement.

An involuntary patient may be placed under restraint if, and only if:

The patient is in an approved hospital or approved assessment centre, and

The restraint is authorised as being necessary to:

- Facilitate the patient's treatment, or*
- Ensure the patient's health or safety, or*
- Ensure the safety of other persons, or*
- Effect the patient's transfer to another facility, whether in Tasmania or elsewhere, and*

The person authorising the restraint is satisfied that it is a reasonable intervention in the circumstances, and

The restraint lasts for no longer than authorised, and

The means of restraint employed in the specific case is, in the case of a mechanical restraint, approved in advance by the CCP or a delegate, and

The restraint is managed in accordance with Chief Civil Psychiatrist Standing Orders and Clinical Guidelines.

A patient may not be placed under restraint as a means of punishment or for reasons of administrative or staff convenience.

In the case of chemical restraint, or mechanical restraint to transport the patient from one approved facility to another, the period authorised may not exceed seven (7) hrs.

In all other cases, the period authorised may not exceed three (3) hrs.

These periods may be extended – see Parts C and D.

Patient's name: _____

Approved facility in which patient is being detained/assessed:

- NWRH (Burnie) LGH RHH Roy Fagan Centre Millbrook Rise Centre

Date of admission (if relevant): ____ / ____ / ____

Name/Identity Card/Payroll Number of person authorising restraint: _____

Status of person authorising restraint:

- Chief Civil Psychiatrist or a delegate Medical Practitioner Approved nurse

Form of restraint authorised:

- Chemical. Medication type/dosage: _____
 Mechanical. Means of restraint: _____
 Physical

I am satisfied that it is necessary to restrain the patient named above (tick all that apply):

- To facilitate the patient's treatment To ensure the patient's health or safety
 To ensure the safety of other persons To effect the patient's transfer to another facility

I am satisfied that the restraint is a reasonable intervention in the circumstances for the following reasons:

I hereby authorise restraint for a period of: _____ Hours and _____ Minutes

commencing on Date: ____ / ____ / ____ at Time: ____:____ (24 hr)

Date and time of authorisation: Date: ____ / ____ / ____ Time: ____:____ (24 hr)

Is the person authorising restraint completing this form?

- Yes – person to sign here!

 No – members of nursing/medical staff to complete:

We confirm that the person named above has authorised restraint for the patient named above, for the reasons given above:

I, Dr/Nurse Name/Payroll/ID Number 1: _____

Signature: _____

Dr/Nurse Name/Payroll/ID Number 2: _____

Signature: _____

COPY TO: Patient CCP (if authorised by a delegate, medical practitioner or nurse) Tribunal LOC If patient is a child or if there is consent - patient's parent/support person/representative **OTHER:** Statement of rights to patient Explanation to patient in language and form that patient can understand

CONTACT DETAILS: MHT: Ph: (03) 6165 7491 mht.applications@justice.tas.gov.au CCP: Ph: (03) 6166 0781 chief.psychiatrist@ohhs.tas.gov.au



CHIEF CIVIL PSYCHIATRIST APPROVED FORM 10

TASMANIA'S
**MENTAL
HEALTH
ACT**

Rights, Request, Recovery

RESTRAINT (INVOLUNTARY)

Mental Health Act 2013
Sections 57 - 58

THCI: (Patient Id): _____

Family Name: _____ Given Name: _____

DOB: ____ / ____ / ____ Gender: M F TG/IT

Address: _____

Phone: _____ Mobile: _____

AFFIX STICKER HERE

PART C: EXTENSION OF RESTRAINT – INITIAL

CHIEF CIVIL PSYCHIATRIST / DELEGATE TO COMPLETE

CHIEF CIVIL PSYCHIATRIST APPROVED FORM 10

TASMANIA'S
**MENTAL
HEALTH
ACT**

Rights, Request, Recovery

RESTRAINT (INVOLUNTARY)

Mental Health Act 2013
Sections 57 - 58

THCI: (Patient Id): _____

Family Name: _____ Given Name: _____

DOB: ____ / ____ / ____ Gender: M F TG/IT

Address: _____

Phone: _____ Mobile: _____

AFFIX STICKER HERE

PART D: EXTENSION OF RESTRAINT – SUBSEQUENT

CHIEF CIVIL PSYCHIATRIST / DELEGATE TO COMPLETE



Resources for Clinicians

[Education and Training Resources | Mental Health \(dhhs.tas.gov.au\)](https://dhhs.tas.gov.au)

[Information for Clinicians | Mental Health \(dhhs.tas.gov.au\)](https://dhhs.tas.gov.au)

[Mental Health Act 2013 Approved Forms | Mental Health \(dhhs.tas.gov.au\)](https://dhhs.tas.gov.au)



Summary

- ▣ The Mental Health Act has a clear focus on capacity- assume it or prove otherwise.
- ▣ There is at least one form for everything- get to know them and make sure you fill them in carefully.
- ▣ If in doubt, call for help early.

Helpful Advice

