

Mental Health Act 2014

Information sheet for general practitioners

Key message

Victoria's new *Mental Health Act 2014* (the Act) will commence on 1 July 2014.

The procedures for initiating compulsory assessment and compulsory mental health treatment have changed.

If a person appears to have mental illness and appears to require compulsory mental health treatment, the Act empowers registered medical practitioners, including general practitioners, to make an Assessment Order.

The purpose of an Assessment Order is to enable an authorised psychiatrist to examine the person to determine whether they have mental illness and require compulsory mental health treatment.

General practitioners may also have a role in providing treatment and care to people subject to Community Treatment Orders.

Assessment Order

Assessment Order – role of general practitioners

Under the Act, a registered medical practitioner¹ may make an Assessment Order if they have examined the person and are satisfied that the criteria for an Assessment Order apply. The Assessment Order replaces the current Request and Recommendation in the *Mental Health Act 1986*.

The purpose of an Assessment Order is to enable an authorised psychiatrist to examine the person to determine whether they have mental illness and require compulsory mental health treatment. Assessment may be conducted in an inpatient setting for example at a public hospital or in the community for example at a community mental health clinic. Assessment should only occur in an inpatient setting, including emergency departments, if the general practitioner is satisfied that the assessment cannot occur in the community.

Before making an Assessment Order it is recommended that general practitioners consult with the local public mental health service to seek advice and support around making an Assessment Order. In particular, it may be necessary to discuss the practicalities for arranging the assessment, for example arranging transport to hospital for the assessment to be conducted.

Contact details of the local public mental health service can be obtained at www.health.vic.gov.au/mentalhealth/services/index

A general practitioner making an Assessment Order must complete a **MHA 101 – Assessment Order** form. This can be accessed at www.health.vic.gov.au/mentalhealth from 1 July 2014.

The criteria for making an Assessment Order are:

- the person appears to have mental illness, and
- because the person appears to have mental illness, the person appears to need immediate treatment to prevent:

¹ A 'registered medical practitioner' is a person who is registered under the Health Practitioner Regulation National Law to practise in the medical profession (other than as a student).

- serious deterioration in the person's mental or physical health; or
- serious harm to the person or to another person, and
- if the person is made subject to an Assessment Order, the person can be assessed, and
- there is no less restrictive means reasonably available to assess the person (for example, the person cannot be voluntarily assessed).

After completing the MHA 101 Assessment Order form, a general practitioner must:

- tell the person that they have made an Assessment Order
- give the person a copy of the Assessment Order
- explain the purpose and effect of the Assessment Order
- give the person a copy of the *Assessment Order - Statement of rights* and explain the information
- notify the authorised psychiatrist of the relevant designated mental health service and give them a copy of the Order.

A copy of the *Assessment Order - Statement of rights* can be accessed at www.health.vic.gov.au/mentalhealth from 1 July 2014.

If an Inpatient Assessment Order is made the general practitioner should arrange for the person to be taken to the relevant designated mental health service. A designated mental health service is a public hospital with a mental health service. The person must be taken to a designated mental health service as soon as practicable but not later than 72 hours after the Inpatient Assessment Order is made. An Inpatient Assessment Order is sufficient authority to transport a person to a designated mental health service (formerly called an approved mental health service).

Transport arrangements should be appropriate to the person and their circumstances and should use the least restrictive transport option possible. General practitioners should talk to the local mental health service about what form of transport is appropriate in the circumstances or refer to the *Protocol for the transport of people with mental illness 2014* which can also be accessed at www.health.vic.gov.au/mentalhealth

If a Community Assessment Order is made the registered medical practitioner should arrange with the relevant designated mental health service for the person to be assessed in the community.

A flow chart outlining the process for making an Assessment Order is attached below.

Assessment Order – further information

An authorised psychiatrist must complete the assessment of a person subject to an Assessment Order within 24 hours of the person being received at a designated mental health service subject to an Inpatient Assessment Order or within 24 hours of the making of a Community Assessment Order.

If the authorised psychiatrist is unable to determine whether the treatment criteria apply to the person within these timelines, for example if it is unclear whether the person's presentation has an organic cause, the authorised psychiatrist may extend the duration of the Assessment Order.

An Assessment Order may be extended by the authorised psychiatrist up to two times for periods up to 24 hours.

Temporary Treatment Orders

If an authorised psychiatrist determines that the compulsory treatment criteria apply to the person subject to an Assessment Order, the authorised psychiatrist may make a Temporary Treatment Order. A Temporary Treatment Order authorises the provision of compulsory mental health treatment.

The treatment criteria require the authorised psychiatrist to be satisfied that:

- the person *has* mental illness, and
- because the person has mental illness, the person needs immediate treatment to prevent –
 - serious deterioration in their mental or physical health; or

- serious harm to the person or another person, and
- the immediate treatment will be provided to the person if they are placed on a Temporary Treatment Order, and
- there is no less restrictive means reasonably available to enable the person to receive the immediate treatment.

The authorised psychiatrist will determine whether the treatment occurs in the community or in an inpatient setting. The duration of a Temporary Treatment Order is 28 days unless it is revoked earlier.

Treatment Orders

If a person remains on a Temporary Treatment Order, the Mental Health Tribunal (Tribunal) must conduct a hearing before the end of the 28-day period of the Order.

The Tribunal may make a Treatment Order if it is satisfied that the treatment criteria apply to the person. A Treatment Order authorises the provision of compulsory mental health treatment.

The duration of a Treatment Order is up to six months for an Inpatient Treatment Order, up to 12 months for a Community Treatment Order, or up to three months regardless of setting if the person is under 18 years of age.

At the end of the period of the Treatment Order, the authorised psychiatrist may make an application to the Tribunal for a further Treatment Order if the treatment criteria still apply to the person.

A patient or any person at the patient's request may make an application to the Tribunal for revocation of their Temporary Treatment Order or Treatment Order at any time.

General practitioners may have a role in providing treatment and care to people subject to Community Treatment Order where they are working in collaboration with a public mental health service to provide treatment and care to a person under the Community Treatment Order.

Other information

The Act will ensure that people subject to a compulsory treatment order are supported to make or participate in decisions about their assessment and recovery. The Act establishes a number of new mechanisms to promote supported decision making, including advance statements and nominated persons.

A general practitioner may be involved in witnessing advance statements and nominations of a person as a nominated person. Further information about advance statements and the process of nominating a nominated person including sample forms for making and revoking advance statements and nominations will soon be available through the Mental Health Act 2014 eHandbook at www.health.vic.gov.au/mentalhealth/mhactreform.

To receive this publication in an accessible format, please telephone 1300 656 692 or email mhactreform@health.vic.gov.au.

More information about the Act is available at www.health.vic.gov.au/mentalhealth/mhactreform. Authorised and published by the Victorian Government, Melbourne, June 2014.

ASSESSMENT ORDERS

