



OPERATIONAL CIRCULAR

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Subject: REQUEST FOR ANOTHER OPINION ON PSYCHIATRIC TREATMENT
MENTAL HEALTH ACT 1996 (ss111,112)

Authority

The *Mental Health Act 1996* states that:

The Chief Psychiatrist has responsibility for the medical care and welfare of all involuntary patients (section 9 (1))

In respect of other patients, the Chief Psychiatrist is required to monitor the standards of psychiatric care provided throughout the State (section 9 (2))

Opinion of another psychiatrist may be requested (s.111)

When an involuntary patient either detained in an authorized hospital or on a Community Treatment Order or a mentally impaired accused is given psychiatric treatment without their consent and is dissatisfied with the treatment the patient may:

- (a) request that an opinion as to whether the treatment should be given be obtained from a psychiatrist who has not previously considered the matter; or
- (b) request the Chief Psychiatrist to arrange for the opinion of a psychiatrist to be obtained as to whether the treatment should be given.

This opinion may be given after the psychiatrist and the patient have been in communication with one another either directly or by audio-visual means (teleconferencing).

Process

It is an important right for an involuntary patient who is dissatisfied with his or her treatment to be able to obtain another opinion regarding that treatment from a psychiatrist who has not previously considered the matter. This right refers to psychiatric treatment but does not include Electroconvulsive Therapy (s.108).

An involuntary patient may make this request either to his or her psychiatrist or the Chief Psychiatrist. If it is to the latter the Chief Psychiatrist has delegated his powers of arranging for another opinion to the Head of Service or the psychiatrist acting in that position.

It would be preferable for this other opinion to be obtained from a psychiatrist who is not employed by the mental health service who is providing care and treatment for the involuntary patient. The exception to this principle is when the patient is agreeable for another opinion from another psychiatrist from within the mental health service providing care and treatment. This agreement may be because of shorter time lines to obtain that opinion or because of patient preference

While it is understood that certain mental health services particularly in the rural and remote areas have difficulty in providing another opinion from a psychiatrist from another service it would still be preferable for that principle to be adhered to. The MHA allows the use of audio-visual means to provide this other opinion.

If another opinion is provided by a psychiatrist who is from within the same service as the treating psychiatrist, it is still a valid opinion.

Other opinion from a Private Psychiatrist

Patients are entitled to request another opinion from a private psychiatrist. If the patient is an involuntary detained patient any face-to-face examination should occur in the authorized hospital. If, in the opinion of the treating psychiatrist, the patient's condition is such that he or she can be examined in a setting external to the authorized hospital then the treating psychiatrist may authorize leave for that examination to occur.

The patient is responsible for any costs that are incurred for an examination by a private psychiatrist.

Recommendations from another opinion

If the other opinion does not recommend any change to treatment then s.112 of the MHA, *'further remedy where person remains dissatisfied'*, does not apply.

The other opinion may indicate that psychiatric treatment should be modified or discontinued. However, the treating or supervising psychiatrist may decide not to act on the views of the other opinion given by the psychiatrist.

The treating or supervising psychiatrist should note that, having decided not to act on the views of the other opinion, the patient may exercise his or her right to seek a review by the Mental Health Review Board (MHRB) citing the other opinion as part of the evidence. The MHRB does not have the power to change the treatment but the Board may make the patient no longer involuntary or if the patient is on a CTO transfer the responsibility of supervision to another psychiatrist.

If the treating or supervising psychiatrist decides not to modify or discontinue the treatment or for any other reason the patient remains dissatisfied he or she may request that the Chief Psychiatrist take steps as outlined under section 112.

Further remedy when person dissatisfied (s.112)

If another opinion obtained indicates that the psychiatric treatment should be modified or discontinued and the person concerned continues to be dissatisfied with the treatment, the Chief Psychiatrist is required, on becoming aware of the person's continued dissatisfaction, to either transfer responsibility for treating the person from the treating psychiatrist to another psychiatrist; or refer the matter to the MHRB.

The responsibility detailed above has been delegated by the Chief Psychiatrist to Heads of Service or a psychiatrist acting in that position. (see Operational Circular OP 2062/06 'Chief Psychiatrist's Delegations')

Further Details

Information about Request for another opinion on psychiatric treatment can be found in the *Supplement to the Clinicians Guide, Mental Health Act 1996*. The Supplement is available on the Chief Psychiatrist's website: www.chiefpsychiatrist.health.wa.gov.au or a copy may be obtained by contacting the office on 9222 4462.

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