

SEPTEMBER 2023

Are you on a treatment order?

Do you need this brochure in a different format?

Phone us on (03) 9269 0234 and ask for
Community Legal Education. We can talk with
you about what you need.

Do you need help calling services?



Translating and Interpreting Service

Phone: 131 450



National Relay Service

TTY: 133 677

Speak and listen: 1300 555 727

Visit www.relayservice.com.au for
more information

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Changes to the law. The law often changes.
To check for changes, you can phone Legal Help
on 1300 792 387 or visit our website,
www.legalaid.vic.gov.au.

Disclaimer. The material in this publication is a
general guide only. It is not legal advice. If you
need to, please get legal advice about your
situation.

About this brochure

If you are on an order for compulsory mental health treatment, this brochure can help you. It explains:

- what a treatment order is
- the treatment criteria
- steps for being put on a treatment order
- how you can get off your treatment order
- Mental Health Tribunal hearings
- how to get free help from lawyers and non-legal advocates.

You have the right to ask for an interpreter to help you understand your rights. Ask the hospital or mental health clinic staff to help you with this. It is free.

What is a treatment order?

A treatment order or a temporary treatment order means that you may receive compulsory treatment.

If you are put on one of these orders, it will say where you can be treated. Treatment can be:

- in a hospital – this is called an inpatient order
- in the community – this is called a community order.

You can only be put on a temporary treatment order or treatment order if all the treatment criteria apply to you.

What is compulsory treatment?

Compulsory treatment means that a mental health clinic or hospital gives you mental health treatment, even if you do not agree. This can include medication such as tablets or injections that you must have.

The law says that you can only get compulsory treatment if you are on an order such as a treatment order or temporary treatment order.

What are the treatment criteria?

You can only be put on a temporary treatment order or treatment order if all four treatment criteria (conditions) apply to you.

The four treatment criteria are:

1. You have a mental illness.
2. Because of your mental illness you need immediate treatment to prevent:
 - serious deterioration in your mental or physical health or
 - serious harm to you or another person.
3. The treatment will be given to you if you are on an order.
4. There are no less restrictive means, reasonably available, for you to get the treatment.

If any of these criteria do not apply to you, you cannot be put on an order. The order that you are on must also be cancelled.

What are the steps for being put on a treatment order?

The law says that this process must be followed for compulsory mental health treatment:

1. Assessment order
2. Temporary treatment order
3. Treatment order.

1. Assessment order

An assessment order means that an authorised psychiatrist can meet you to assess (decide) whether to put you on a temporary treatment order. They can assess you even if you do not want them to.

A doctor or mental health practitioner can make an assessment order. They can do this if:

- you appear to have a mental illness
- because you appear to have a mental illness, you appear to need immediate treatment to prevent serious deterioration in your mental or physical health or serious harm to you or another person, and

- there are no less restrictive means, reasonably available, for you to be assessed.

They must give you a copy of the assessment order and notify your nominated support person if you have one.

While you are on an assessment order, you must not be given compulsory treatment unless it is deemed urgent by a doctor.

2. Temporary treatment order

An authorised psychiatrist can make a temporary treatment order for you to have compulsory treatment. The temporary treatment order can last up to 28 days.

The psychiatrist must believe that the treatment criteria (conditions) apply to you before making a temporary treatment order.

They must give you a copy of the temporary treatment order.

They must notify your nominated support person if you have one. They must also notify the non-legal advocacy service, IMHA (Independent Mental Health Advocacy). IMHA will then contact you, unless you tell them not to.

3. Treatment order

The Mental Health Tribunal can make a treatment order for you to have compulsory treatment. The Mental Health Tribunal must hold a hearing within 28 days of the temporary treatment order being made.

A treatment order can last:

- up to six months if you are an adult
- up to three months if you are under 18.

The tribunal must believe that the treatment criteria (conditions) apply to you before making a treatment order.

If your treatment order is not cancelled sooner, it ends on the date set by the Mental Health Tribunal. If your psychiatrist thinks you need more compulsory treatment, they can apply to the tribunal for a new treatment order.

How can I get off the order?

You can ask the Mental Health Tribunal for a hearing to cancel your temporary treatment order or your treatment order. You can ask for a hearing at any time.

To apply, complete the form at the end of this brochure and send it to the tribunal. You can ask the hospital or clinic staff to send it for you. You can also apply online through the tribunal's website. You can contact a lawyer or a non-legal advocate for help. Go to 'More information and help' at the end of this brochure.

You can also ask your psychiatrist to cancel the order. They must cancel your order if they think that you do not meet all four treatment criteria. If you are in hospital, your psychiatrist can also change your inpatient order to a community order so you can leave hospital and get treatment in the community.

What is the Mental Health Tribunal?

The tribunal is independent decision-maker that holds hearings to decide whether to:

- make a treatment order
- cancel a treatment order or a temporary treatment order. If the tribunal does not think all four treatment criteria apply, it must cancel your order.

Before your hearing

The psychiatrist prepares a report and must give you a copy. They will also give this to the tribunal before the hearing. Some documents from your medical file are also given to the tribunal.

You have a right to access these documents at least two business days before your hearing. Your psychiatrist can ask the tribunal to stop you reading certain documents or information in them if they believe it could cause serious harm to you or someone else.

You can get help to prepare for your hearing. You can get legal advice and you may be able to have a lawyer represent you at your hearing. Talk to our duty lawyers or call our Legal Help phone line. Go to 'More information and help' at the end of this brochure.

At your hearing

There are usually three tribunal members who make a decision about your order together. They will read the psychiatrist's report and the parts of your medical file the psychiatrist sent. They will listen to your treating team. They will also listen to you and anyone you bring to the hearing to support you. You have the right to have your say, it is your mental health.

The tribunal members will decide if all four treatment criteria apply to you. If they decide:

- all four treatment criteria apply, they will either confirm your order or make a treatment order. They will decide if it should be an inpatient or community order. If they make a treatment order, they will also decide how long the order lasts.
- one or more of the treatment criteria do not apply to you, they will cancel (revoke) the order you are on. This means you can choose to have the treatment or not.

After your hearing

You have the right to ask the tribunal for a written Statement of Reasons within 20 business days of its decision. This request must be in writing. The tribunal then has 20 business days to give you its written reasons. A copy will also be put on your medical file at the hospital or mental health clinic.

You have the right to appeal or challenge the tribunal's decision to make a treatment order. You can do this in one of two ways:

- ask the tribunal for another hearing to cancel the order. You can do this at any time.
- apply to the Victorian Civil and Administrative Tribunal (VCAT) for a review of the Mental Health Tribunal's decision. You can contact a lawyer for more information about this. Go to 'More information and help' at the end of this brochure.

How can a lawyer help?

Victoria Legal Aid is independent of mental health services and the Mental Health Tribunal. If you have been put on an order, or you are concerned about compulsory treatment, you can speak to a lawyer. We can give you free information and advice about:

- your rights and legal options
- how to change or end your order
- how to prepare for a hearing at the tribunal
- whether a lawyer can represent you at your hearing.

For information about how to contact us, go to 'More information and help' at the end of this brochure.

Where can I get more information about my rights?

If you get compulsory treatment, you have rights.

Statement of rights

You will receive a 'Statement of Rights'. This statement explains your rights during the compulsory treatment process. There are different statements of rights for different situations and types of orders relating to mental health treatment. You can also get these statements of rights from the Victorian Department of Health website.

Lawyers and non-legal advocates

You have the right to communicate with a lawyer to get legal advice about compulsory treatment or other legal issues.

You also have the right to be supported by a non-legal advocate from IMHA (Independent Mental Health Advocacy). By law, IMHA will contact you at key points if you get compulsory treatment, unless you tell them not to. You can go to IMHA's website for more information about this, and about your rights.

Go to 'More information and help' at the end of this brochure.

Ask the tribunal for a hearing to cancel your order

Your name: (required)

Your date of birth: (optional)

Your postal address or email address:

(You can use the hospital’s address if you do not know your address) (required)

I wish to have my treatment order (or temporary treatment order) cancelled.

I am being treated:

(tick an option and write the name of the place where you are being treated if you know it)

☐ in a hospital [insert name of hospital if known]

☐ in the community [insert name of the clinic if known]

Signed:

Date:

Send this to the Mental Health Tribunal

By post: Level 30, 570 Bourke St, Melbourne Vic 3000

By email: mht@mht.vic.gov.au

You can also give this to hospital or clinic staff to send to the tribunal.

You can also apply online at: www.mht.vic.gov.au

You can contact a lawyer or a non-legal advocate for help.

 FILL OUT FORM ON OPPOSITE SIDE

Fill out the form on
the opposite side.

Tear this page off
and send to the Mental
Health Tribunal.

 TEAR THIS PAGE OFF

 SEND TO THE MENTAL HEALTH TRIBUNAL



More information and help

Victoria Legal Aid

We help people in Victoria with their legal problems, including people who need advice about compulsory mental health treatment:

- phone Legal Help on 1300 792 387, Monday to Friday, 8 am to 6 pm
- use Legal Help Chat on our website www.legalaid.vic.gov.au, Monday to Friday, 8 am to 6 pm
- meet one of our lawyers where you get treatment; we visit most hospitals and some community mental health clinics regularly.

Other services

Independent Mental Health Advocacy

A non-legal advocate can support you to make decisions and have as much say as possible about your assessment, treatment and recovery. This service is independent, free and confidential.

Phone: 1300 947 820

www.imha.vic.gov.au

Mental Health Legal Centre

Free legal assistance.

Phone: (03) 9629 4422

www.mhlc.org.au

Victorian Aboriginal Legal Service

Free legal assistance for Aboriginal and Torres Strait Islander peoples.

Phone: (03) 9418 5920 (Civil and Human Rights Practice)

www.vals.org.au

Department of Health

For the Statement of Rights and more information, visit the 'Mental health' section of the website.

www.health.vic.gov.au/mental-health-and-wellbeing-act

Mental Health and Wellbeing Commission

Independent complaints service.

Phone: 1800 246 054

www.mhwc.vic.gov.au

Mental Health Tribunal

Phone: 1800 242 703

www.mht.vic.gov.au

Are you on a treatment order?

Victoria Legal Aid

For free information about the law and how we can help you, please visit our website www.legalaid.vic.gov.au or call Legal Help on 1300 792 387 Monday to Friday 8 am to 6 pm.

Offices

Melbourne

Suburban offices

Broadmeadows

Dandenong

Frankston

Ringwood

Sunshine

Regional offices

Bairnsdale

Ballarat

Bendigo

Geelong

Horsham

Mildura

Morwell

Shepparton

Warrnambool



Publication orders

To download or order our publications in English or other languages go to www.legalaid.vic.gov.au
If you need help ordering online please call (03) 9269 0234 and ask for ask for Community Legal Education or email cle@vla.vic.gov.au

