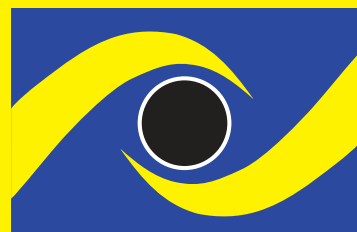


MHA GUIDE BOOK



NSW INSTITUTE
OF PSYCHIATRY



MENTAL HEALTH ACT GUIDE BOOK

Amended May 2003

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Last year the Carr Government embarked on reform of the *Mental Health Act*. This reflected a concern that the *Act* was not making appropriate provision for the care of people with mental illness when they were not well enough to make safe decisions for themselves. The amendments made to the *Act* were the result of a broad consultation process with those directly affected as consumers, carers or service providers.

This rewrite of the *Mental Health Act Guide Book* embraces those amendments to the legislation. It provides a clear explanation of the most commonly used parts of the legislation and is a valuable reference tool for all of those who work with the *Mental Health Act*.



Andrew Refshauge MP
Deputy Premier
Minister for Health
Minister for Aboriginal Affairs

The NSW Institute of Psychiatry is pleased to be involved in the production of the *Mental Health Act Guide Book*, that was prepared with financial support from the Department of Health.

The *Guide* represents the coordinated activity and enthusiasm of many people, but particularly the members of the Mental Health Act Project Steering Committee.

The Institute of Psychiatry is committed to the production of high quality effective educational material in the field of mental health and sees this *Guide* as a significant achievement.



Dr Louise Newman

Director

NSW Institute of Psychiatry

Introduction

The *Mental Health Act* establishes the legislative framework within which care, control and treatment can be provided for people with a mental illness in NSW. A good understanding of the major objectives and requirements of the *Act* is therefore important for all of those who work within the mental health system.

As the *Act* itself can often seem like a daunting maze of interconnecting rules and procedures, the *Guide* has been written to provide mental health practitioners with a clear and practical source of information about the most commonly used parts of the *Act*. Thus it focuses on the procedures surrounding involuntary admission and the implementation of Community Orders, while also highlighting the importance of consumer rights and the external processes of review.

This edition of the *Guide* contains updated material to take into account amendments to the legislation, as well as some new sections. Appendix 1 contains the Forms which are used in conjunction with the *Act*, while material which can assist in preparing for Tribunal hearings appears in Appendix 2. There is a list of Contacts for times when further information about the *Act* is required, and three training sessions have also been included to encourage ongoing education in the *Mental Health Act* within agencies.

On behalf of the NSW Institute of Psychiatry, I wish to thank many people who assisted me in this endeavour. In particular I would like to mention Mr Dennis Bale, Ms Sandra Hoot, Ms Maria Cassaniti, Mr Robert Wheeler, Mr Chris D'Aeth, Ms Robyn Shields, Ms Kath Thorburn, Ms Marion Brown and Ms Nicola Watt for their comments and suggestions on earlier drafts of the material, Ms Fiona Dix for her word processing skills, and Ms Liz Hay for layout.

I hope this manual will assist those who work with the mentally ill in NSW to use the legislation as an effective means of providing the best possible care and treatment within the least restrictive environment.

Pamela Verrall

Mental Health Act Project

NSW Institute of Psychiatry

November 1998

Summary of Major 1997 Amendments

Accredited persons

- in areas where there is a shortage of medical practitioners, experienced mental health professionals can be given the authority to write Schedule 2 certificates.

Definition of a mentally ill person

- replacement of requirement for 'serious physical harm' with 'serious harm'
- deletion of separate criteria relating to bipolar disorder so that new criteria apply to all forms of mental illness
- expansion and clarification of 'continuing condition'.

Duration of Community Treatment Orders

- maximum increased from 3 to 6 months.

ECT for involuntary patients

- Mental Health Review Tribunal approval is mandatory in all cases.

Magistrate's power of adjournment

- a magistrate may adjourn an inquiry from time to time for up to 14 days where this is seen to be in the best interests of the patient.

Official visitors

- are appointed to visit area health services rather than individual hospitals
- response time to a patient's request to see an official visitor reduced from 7 to 2 days.

Police powers

- police may take a person directly to hospital if they appear to be seriously mentally disturbed whether they have been apprehended in a public or private place.

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