

TREATMENT PLANNING, the MENTAL HEALTH REVIEW BOARD and the CHARTER OF HUMAN RIGHTS



Office of the Chief Psychiatrist Forum
August 26th 2009

INTRODUCTION TO THE DAY

- Busy time in mental health reform and relevant legislation
- Treatment plans introduced in 2003, further amendments in 2005
- Charter of Human Rights and Responsibilities effective from January 2008 – provides a lens through which other legislation and actions need to be considered
- The Mental Health Act (1986) being reviewed and new legislation being developed
- Because Mental Health Matters released 2009 – extensive and far reaching reform proposals over a 10 year period

BACKGROUND

- Concerns expressed by MHRB, AMHS, consumers and family that treatment planning under s19A is inadequate
- Concerns expressed by MHRB about doctor and patient availability, rate of adjournment, access to documents
- Concerns expressed by clinicians about response by service when MHRB orders that a person be placed on a CTO under s36(4)
- **Issues underlined by recent hearings involving consideration of the Charter**

MHRB

- Hears appeals and reviews involuntary status. Relies on whether person meets criteria.
- Must review within 8 weeks of order being made and annually (Kracke)
- Must review the treatment plan
- Has power to discharge, confirm order or direct that an ITO is shifted to CTO

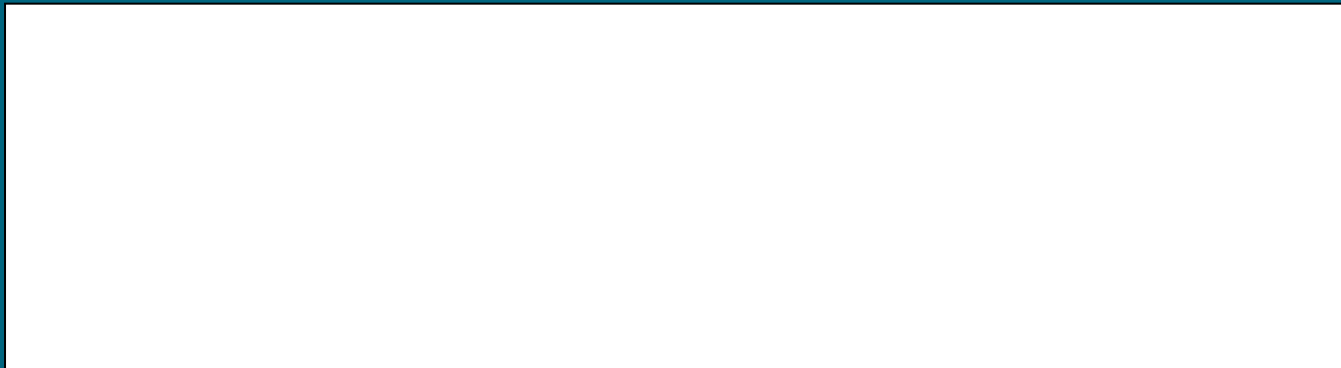
TREATMENT PLANS

- Must be prepared for each patient
- Must take into account patients wishes and wherever possible those of family/carers
- Should include type/intention of treatment, risks and benefits of proposed interventions, where and when treatment will be provided and who will be involved
- Must be capable of being implemented
- Greater detail expected for treatment plan in the community

MENTAL HEALTH ACT REVIEW

- Victorian MHA oldest in the nation – much amended
- Charter highlighted areas that needed review and alteration
- Models now implemented on other jurisdictions need consideration
- Complex and complicated process, as shown by very different comments made during the consultations

CHARTER OF HUMAN RIGHTS



SCENARIO 1

- Gloria is 25. She has been diagnosed with schizophrenia and has had 5 prolonged admissions – each in the context of reducing or ceasing treatment. Her admissions have all been involuntary, marked by aggressive and sexually disinhibited behaviour, intense distress and damage to property.
- Gloria lives with her parents. They do not believe she has a mental illness and are concerned that the medication is causing the problems. They seek legal advice on how to stop the treatment, and appeal to the MHRB on Gloria's behalf

QUESTIONS

1. How should the authorised psychiatrist respond to this situation?
2. What are the rights of the family?
3. If they/she appeals to the MHRB, what information would they seek, and what would be the outcome
4. Does the charter change the responsibility or outcome for the service, the family or the patient?

SCENARIO 2

- Emily is 14. She has anorexia nervosa, a BMI of 15, and has been managed in the private system
- She decides to stop seeing her psychiatrist, and to revert to a restrictive dietary intake. She is still able to attend school
- Her parents are concerned that she will be at risk of death or permanent physical harm. They seek to have her admitted involuntarily

QUESTIONS

1. Can the parents decide on the admission? What are their rights?
2. Is Emily deemed to have capacity in this situation? Who determines this?
3. Under the new MHA, will the outcome be different?
4. If Emily is admitted, can she be forced to have naso-gastric feeds?

SCENARIO 3

- Roger is 67 yrs old. His wife recently died. He has had a long history of BAD with multiple relapses. His children are exhausted by his disability and rarely visit.
- He tells his treating MH clinician that he is sick of life, sick of having BAD and lonely. He hints that in coming months he may “go away”.

QUESTIONS

1. What should the MH clinician do?
2. What are his rights in this situation? – from a consumer perspective?
3. How does the current MHA or the proposed new MHA impact on his freedom of choice?
4. Does he require a guardian?

SCENARIO 4

- Jayden is 23 yrs old. He was diagnosed with schizophrenia at 16 but luckily had a good response to treatment. However, when unwell he is very tormented and responds to both hallucinations and delusions by inflicting serious self harm. He has enucleated one eye, and on another occasion he almost amputated his left arm.
- When unwell Jayden is managed under the MHA, but he argues forcefully when well that he will remain on treatment. The AMHS have tried hard to engage Jayden and his family, but he generally fails to attend some months after the most recent relapse
- On this occasion he is admitted after a serious assault on his younger sister who he believed was Satan. His family are angry that he was allowed to drop out of treatment.

QUESTIONS

- When is it acceptable practice to continue on a CTO despite the person's good response to treatment and assurance of compliance?
- What role should the family play in arguing for continued involuntary management?
- How serious should the 'risk of' be to warrant continued involuntary management