

Mental Health Policies & Procedures: A Manager's Toolkit

Mental Health Act- Fact Sheet

Source: <http://www.ppao.gov.on.ca/inf-for.html>

Mental health, consent and **substitute decision-making** make up the framework for Ontario's Mental Health Act. The following are a few key points of the Mental Health Act. It can help you to better understand the legislation and the rights of your clients while in a *psychiatric facility*.

Assessment

- (Form 1) allows a doctor to hold you in a hospital for up to 72 hours to complete a psychiatric assessment
- Once the assessment is completed, you must be released, admitted as a voluntary or informal patient, or admitted as an involuntary patient
- You have the right to know the reason for your detention and receive a written notice of those reasons
- You have the right to retain and instruct a lawyer, without delay. The hospital has to provide you with the ability to do so (for example, they must allow you access to a phone)

Informal Patients

- An informal patient is someone who has been admitted to a psychiatric facility on the consent of another person to get treatment ("substitute decision-maker"; usually a relative)
- A "Rights Adviser" will give you the following information immediately upon admission:
 - o the change in your legal status (the fact that you are incapable of making treatment decisions and you have been admitted as an informal patient)
 - o your right to challenge the doctor's decision
 - o your right to have a lawyer
 - o your right to apply for legal aid

Note: Nothing in the *Mental Health Act* authorizes a psychiatric facility to detain or to restrain an **informal** or **voluntary** patient. However, the *Mental Health Act* does allow an attending physician to change the status of an informal patient to an "involuntary" patient.

Involuntary Patients

- This means you are not free to leave the hospital without permission; The *Mental Health Act* sets out two reasons to be held as an involuntary patient: (1) the person is a danger to themselves, another person, or may unintentionally injure themselves or (2) the person's condition is deteriorating and they require hospitalization

Religious & Spiritual Rights

- You have a right to the regular, normal practices of your faith group. This includes worship, diet, prayer and the other regular religious disciplines of your Faith Group. You also have a right to the visitation, direction and support your faith community offers.

Restraints

- In situations where your behaviour poses an immediate, serious threat to your own safety or serious threat to the safety of others, staff may use restraints to bring your behaviour under control

Searches

- You do not have to consent to a search of your person, your room or your property; you do have the right to demand that the hospital show that they have reasonable grounds to conduct a search

Voluntary Patients

- Voluntary patients are capable of making a decision about staying or leaving the psychiatric or mental health unit of a hospital; you cannot be detained
- You may go to the hospital or see your doctor and you agree you need to be admitted

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Mental Health Act: A Manager's Duty to Accommodate

Source: Ontario Human Rights Commission: Human Rights & Mental Health, http://www.ohrc.on.ca/en/issues/mental_health/

Responsibilities in the Accommodation Process:

- Accept requests for accommodation from employees and clients in good faith
- Only request information that is required to provide the accommodation. For example: You need to know that an employee's loss of vision prevents them from using printed material, but you do not need to know they have diabetes
- Take an active role in examining accommodation solutions that meet individual needs
- Deal with accommodation requests as quickly as possible, even if it means creating a temporary solution while a long-term one is developed
- Maximize confidentiality for the person seeking accommodation and be respectful of his/her dignity
- Cover the costs of accommodations, unless it causes undue hardship for the organization

Duty to accommodate must include:

- Respect for a person's dignity
- Individualized accommodation (not a "one size fits all" approach)
- Integration and full participation:
 - o *Inclusive design*: Organizations must design their services, policies and processes with the needs of people with mental health disabilities and addictions in mind
 - o *Removing barriers*: Physical, attitudinal, and systemic

Justifying lack of accommodations:

- If discrimination is found to exist at your organization, the legal burden shifts to the person responsible for accommodation (employer/organization) to show that *the discrimination is justifiable*

EXAMPLES OF ACCOMMODATIONS

- Increased flexibility work/program hours
- Calling a support person if client experiences crisis
- Facilitating an employee's access to an addictions program and allow time off
- Getting information about community resources and supports
- Depending on the circumstances, job restructuring, retraining or assignment to an alternative position

Visit www.mentalhealthworks.ca for information about accommodating staff. This information can also be used as ideas for client accommodations.

Learn More:



Mental Health Act (Ontario)

http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_90m07_e.htm

Psychiatric Patient Advocate Office InfoGuides

<http://www.ppao.gov.on.ca/inf-alpha.html>

Rights & Responsibilities: Mental Health and the Law

http://www.ontario.cmha.ca/admin_ver2/maps/rightsandresponsibilities.pdf