

# Chapter Two

## Voluntary admission

### *Increased rights for consumers*

**T**his chapter defines voluntary admission, and explains the rights of patients to receive a second opinion if voluntary admission is refused. It also discusses the voluntary patient's right to discharge themselves from hospital and the provisions in relation to holding an involuntary patient in protective custody by an approved nurse or doctor for assessment. A brief description of admission criteria and procedures for each of the public hospitals has been included at the end of this chapter.

### Background

In the past, the focus of mental health legislation was on ensuring the involuntarily detention of a person in a hospital. The new generation of mental health legislation across Australia aims to clarify when a person is or is not a voluntary patient, by defining the term voluntary admission. This allows the person, their carer and staff to know the person's legal status at any point in time.

Another advantage of defining voluntary admission lies in providing the opportunity to specify an age (14 years) where a young person can consent to admission on their own behalf. The issue of access to treatment and the right to treatment has been addressed through a right, under the Act, for the person to be referred for a second opinion if admission is refused. The [Mental Health Act 1996](#) recognises that preference must always be given to admission with the consent of the person, rather than involuntary admission.

### *Definition of voluntary admission – [sections 17 and 19](#)*

Voluntary admission means admission with the consent of the person. Any person aged 14 years and over can request voluntary admission to an approved hospital. In the case of a person who is under 14 years of age, the admission is voluntary if the person is admitted with the consent of his or her parent and does not resist the admission.

A person can be admitted to an approved hospital following their own request for admission, or on an initial or continuing care order. Initial orders and continuing care orders are discussed in detail in [Chapter 4](#).

### *Preference for voluntary admission – [section 18](#)*

Section 18 emphasises that admission to an approved hospital with the patient's consent is to be preferred to involuntary admission.

### **Refusal of admission – sections 20 and 21**

While the focus of mental health legislation is generally the protection of civil liberties in regard to involuntary hospitalisation, the right to treatment for mental illness has gained prominence recently, partly as a result of the *Burdekin Report*. Sections 20 and 21 acknowledge this concern and provide for a referral for a second opinion in certain circumstances. The pre-conditions for, and steps involved in, provision of a second opinion are outlined below.

#### **Obligation on the medical practitioner to give reasons and other information**

Section 20 requires a medical practitioner refusing admission to give a reason for the refusal. For example, one reason may be that the doctor considers that the person does not have a mental illness or an illness amenable to treatment in the hospital, and this will give rise to the right at section 21.

Section 20 also provides that if admission is refused, then the doctor must also:

- if appropriate, advise of alternative services available and how to access them; and
- advise of the right to have the matter referred to an approved medical practitioner for a second opinion.

#### **Referral for a second opinion**

Section 21 requires a medical practitioner to refer the request for admission to an approved medical practitioner at the request of the patient if admission is refused to a person who:

- has no mental illness which can be properly treated at the hospital.

A strict interpretation of this section would also require a letter of referral to be given to a person who is refused admission on the ground that they do not have a mental illness at all. The right is the right to be referred for a second opinion (rather than the right to be admitted as a voluntary patient). The Act does not stipulate a time-frame in which the second opinion must be given, and this suggests that the second opinion must be given as soon as practicable in the circumstances (rather than within precisely 4 hours, for example).

#### **Pre-conditions for a second opinion:**

The pre-conditions for a second opinion are:

- admission is requested;
- admission is refused by the medical practitioner determining admission;
- the person has a mental illness but this illness cannot be treated at the facility, or the person is refused admission on the grounds that they do not have a mental illness; and
- the person requests a second opinion.

If these pre-conditions are met:

- the medical practitioner must refer the matter to an approved medical practitioner;
- a referral may be made to an approved medical practitioner of the patient's choice, however any cost incurred must be met by the patient;
- if the patient obtains a second opinion from an approved medical practitioner, the approved medical practitioner providing the second opinion can only request admission;
- any directions in regard to care and treatment given by an approved medical practitioner can obviously only apply if the request for admission is accepted.

***Powers re: discharge of voluntary patients – [sections 22 and 23](#)***

The right of a voluntary patient to discharge him or herself at any time is stated in section 22. If a voluntary patient seeks to discharge themselves from hospital, a medical practitioner or an approved nurse may take the person into protective custody and detain the person for up to four hours. The purpose of the detention is to allow for the examination of the person and to have a decision made about whether an order should be made for the involuntary hospitalisation of the person (section 23). If an order has not been made within four hours, the person must be released. It should go without saying that a medical practitioner or approved nurse should only take the person into protective custody if they are satisfied that the person would meet the criteria for involuntary detention, as specified in [section 24](#) of the Act (see [Chapter 4](#) below).

## Admission procedures in particular approved hospitals

***The Royal Hobart Hospital***

Admission to the Department of Psychological Medicine is through the Department of Emergency Medicine. No patient can be directly admitted to the ward unless they have been examined in the previous 24 hours by a psychiatrist who then requests admission or by arrangement with the registrar on duty.

- On attending the Department of Emergency Medicine, the person will be seen either by the Liaison Team or the Duty Registrar.
- Admission priority is given to individuals that:
  - (a) display the symptomatology of a major mental illness according to DSM IV or ICD-10;
  - (b) are likely to benefit clinically from brief inpatient admission;
  - (c) currently reside in the Southern Region;
  - (d) are over 17 years of age.
- The following exclusion criteria may apply:
  - (a) Children under 14 years;
  - (b) Non-ambulant patients;
  - (c) Patients requiring acute medical or surgical intervention;
  - (d) Patients requiring long-term or extended hospital stay;
  - (e) Patients requiring secure unit containment by virtue of the risk of injury they pose to themselves or others. These patients should be admitted to Ward 7 at the Royal Derwent Hospital or other facility within mental health services which can offer a secure environment;
  - (f) Patients who primarily suffer from a personality disorder and for whom a brief period of time in hospital is unlikely to produce any therapeutic benefit;
  - (g) Patients seeking shelter for primarily social problems such as financial or accommodation difficulties;
  - (h) Patients who are using suicidal threats, in the absence of major mental illness, as a means of manipulating access to resources. (There is limited provision for these

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patients to be risk managed at the Royal Derwent Hospital if secure containment is warranted);

- (i) Patients whose primary problems are due to alcohol or substance abuse;
- (j) Patients suffering from delirium or dementia.

### ***The Royal Derwent Hospital***

Referral for admission to the Royal Derwent Hospital is through Acute Psychiatric Units at Public Hospitals or through the Department of Emergency Medicine at the request of liaison psychiatry or the Psychiatric Registrar on duty. For admission:

- referrals should be arranged through the Director of Medical Services at the Royal Derwent Hospital or their nominee and after hours with the duty doctor;
- documentation of assessment, reasons for referral and prior management should be provided for the admitting doctor;
- where the primary problem is alcohol/drug dependency or intellectual disability the person should be referred to the appropriate services. Admission to acute services in the Royal Derwent Hospital should only occur if the person also suffers from a severe mental illness requiring specific treatment.

### ***Launceston General Hospital – Ward 1E***

Ward 1E accepts patients from the area covered by the 0363 telephone prefix, who have acute psychiatric problems:

- referrals may be from the community, out-patients, Department of Emergency Medicine or from other wards of the Launceston General Hospital or transferred from other regions;
- during business hours a person seeking admission will be assessed by the Intake Officer who will liaise with a Psychiatrist or Psychiatric Registrar;
- after hours, the person will be assessed by a Community Mental Health Team member in consultation with the on-call medical staff (between the hours of 5.00pm – 10.30pm weekdays and 8.00am – 10.30pm weekends and public holidays);
- psychiatrists within the program can also make direct admissions in consultation with ward staff;
- All individuals admitted must undergo medical and psychiatric assessment.

### ***Spencer Clinic (North West Regional Hospital)***

Requests for admission to Spencer Clinic are directed to the respective community mental health service during normal working hours (Dunburn House, Burnie or Oldaker Street, Devonport) to allow triage and further assessment of the treatment required.

- child and adolescent referrals are directed to the Child and Adolescent Mental Health Service. After hours referrals are directed in the first instance to the on call psychiatrist. This includes all child and adolescent referrals;
- the catchment area for Dunburn House is the western North West region excluding Ulverstone (includes West Coast, Circular Head and King Island). The catchment area for Oldaker St Clinic is the eastern North West including Ulverstone;

- all people accepted for admission to Spencer Clinic present to reception, Accident and Emergency Department, North West Regional Hospital, Burnie on arrival. A physical examination is performed and patients are then taken to Spencer Clinic where a Medical Officer undertakes the psychiatric admission;
- direct admission to the psychiatric unit via the rear entrance only occurs in exceptional circumstances, as directed by the psychiatrist accepting the admission;
- voluntary admission for adults is defined in section 17 as admission with the consent of the person.

Key  
points

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- Voluntary admission for young people is defined in section 19 as being:
  - (a) with the consent of the young person if they are 14 years or older; and
  - (b) with the consent of a parent or guardian if the person is under 14. The admission will not be voluntary if the young person resists admission despite the consent of the parent or guardian.
- Preference must be given to voluntary admission.
- Refusal of voluntary admission:
  - (a) If voluntary admission is refused, the medical practitioner refusing admission must:
    - (i) give reasons for the refusal;
    - (ii) advise of other available services, if appropriate;
    - (iii) advise of the right to referral for a second opinion.
  - (b) The right to a referral for a second opinion exists if:
    - (i) admission is requested;
    - (ii) admission is refused;
    - (iii) the person requests a second opinion.
- Right to discharge:
  - (a) a voluntary patient has the right to discharge themselves at any time.
  - (b) this right is subject to the power of a medical practitioner or an approved nurse to take the person into protective custody for a maximum of four hours in order to obtain a medical assessment