# TREATMENT AUTHORITY REVIEW

# **Treatment Authority reviews occur:**

Automatically within the first 28 days, 6 months, 6 months and then every 12 months (**Periodic review**)

- By application to the MHRT at any time (Applicant review)
  - On the MHRT's initiative (Tribunal review)
- Because there has been a material change in the patient's mental state requiring a change of category from community to inpatient (under notice) 5 413

# Before the hearing

- Notice of hearing to be given to parties, at least 7 days before hearing; 5 418
- Clinical report to be given to MHRT and patient at least 7 days before the hearing; <sup>5723</sup>
  - Other documents to be submitted to MHRT and other parties at least 3 days before the hearing; 5738

    Timeframes can be shortened if parties

Timeframes can be shortened if parties agree. MHRT Practice Direction 1/2017.

# MHRT hearing to review Treatment Authority

The MHRT must decide whether to confirm or revoke the Treatment Authority. The authority must be revoked if:

- the treatment criteria no longer apply; or
  - there is a less restrictive way for the person to receive treatment and care for mental illness; <sup>5 421</sup>

If applicant review, MHRT must decide whether to make the orders requested.

If Tribunal review or under notice, must decide matters stated in hearing notice. <sup>5</sup> 419

MHRT decides to:

## **Confirm Treatment Authority.**

Person can receive treatment and care for mental illness without their consent.

MHRT must also decide:

### **Category of Treatment Authority**

- must be changed to community, unless MHRT considers the person's treatment and care needs; safety and welfare, or safety of others cannot be reasonably met if a community patient <sup>5 423</sup>
- may be changed to inpatient, if reasonably necessary for authorised doctor to examine the person's treatment and care needs 5 428

**If community category**, whether the doctor can reduce extent of community treatment in the future, <sup>5 424</sup>

**If inpatient category**, whether the person can have limited community treatment (LCT) although this decision is usually left to the discretion of the doctor. <sup>5 425</sup>

Whether to make, change or remove  ${\bf conditions}$  on authority (but cannot make a condition about particular medications or dosages)  $^{5.426}$ 

Whether to order **transfer** to another mental health service \$ 427

Whether to make other appropriate orders 5 429

### **Revoke Treatment Authority.**

Patient can only receive treatment and care voluntarily, or with the consent of an Advance Health Directive, health guardian or attorney.

### After an MHRT hearing

- Parties receive notice of decision within 7 days, <sup>5 755</sup>
- Patient can request statement of reasons from MHRT, <sup>5 756</sup>
- Person can appeal decision to the Mental Health Court within 60 days of receiving written notice of the MHRT's decision, <sup>5 541, 5ch 2</sup>



# TREATMENT AUTHORITY REVIEW

Treatment Authorities (TA) authorise involuntary treatment and care for mental illness. They are made by an authorised doctor and reviewed by the Mental Health Review Tribunal (MHRT). This flow chart focuses on the Tribunal review process.

# \*Treatment Criteria for a Treatment Authority (both parts must be satisfied):

### 1. All the below treatment criteria apply to the person

- The person has a mental illness;
- The person does not have capacity to consent to be treated for the illness (capacity must be stable, \$ 421(2))
- Because of the illness, absence of involuntary treatment is likely to result in:
  - Imminent serious harm to the person or others; or
  - The person suffering serious mental or physical deterioration.

S 12 AND

# 2. There is no less restrictive way for a person to receive treatment and care for mental illness.

There is a **less restrictive way** for a person to receive treatment and care if consent for treatment can be given by:

- · a child's guardian
- Under an Advance Health Directive
- A personal guardian
- An Enduring Power of Attorney
- Statutory health attorney

S 13

### Matters the MHRT must have regard to:

- mental state and pyschiatric history;
- · any intellectual disability of the person;
- social circumstances, including, family and social support;
- response to treatment and care and the person's willingness to receive appropriate treatment and care;
- if relevant, response to previous treatment in the community.

\$ 412 Sch 3 ("relevant circumstances")

### **Attendance at Hearing**

- The patient is encouraged to, but does not have to attend the hearing.
- If 17 years old or under, the patient will be appointed a free legal representative, unless already represented or patient waives right to representation, \$ 740
- Patient can bring a support person, \$ 739
- One or more members of the patient's treating team must attend the hearing.
- Hearings can be attended in person, by phone or, if available, by videoconferencing.

### **Evidence Considered by MHRT**

- Documents
  - Clinical report
  - Treatment Authority
  - Hearing notice
  - If third periodic review (at 12 months) if the patient does not have a personal guardian, a report from mental health service about whether a personal guardian should be appointed, \$ 420
  - If applicant review— application form
  - Any other documents submitted by doctor applicant or patient (including patient self-report)
- Oral information given by people attending the hearing.

#### **Parties to Review**

- The patient
- The person who applied for the review (if there is one)
- The administrator of the authorised mental health service
- and for classified patients, the Chief Psychiatrist.

S 736, 418,

### **Appeals**

A review will not occur if there is an appeal to the Mental Health Court pending and the MHRT's decision has been stayed. **5 415** 

Unless otherwise specified, numbered references to sections (s) are from the *Mental Health Act 2016* (Qld)