

Mental Health Act 2016

Chief Psychiatrist Policy

Electroconvulsive therapy

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General

Electroconvulsive therapy (ECT) is a 'regulated treatment' under the [Mental Health Act 2016](#) (the Act). ECT is an evidence-based treatment for certain severe psychiatric disorders. It can also be used as a maintenance treatment for certain severe psychiatric disorders.

ECT may only be performed with the informed consent of an adult patient, with the approval of the Mental Health Review Tribunal (MHRT), or in emergency circumstances to save a relevant patient's¹ life or prevent the patient suffering irreparable harm.

The [Queensland Health Guidelines for the Administration of Electroconvulsive Therapy](#) outline best practice in the administration of ECT.

Scope

This policy is mandatory for all authorised mental health services (AMHSs). An authorised doctor, authorised mental health practitioner, AMHS administrator, or other person performing a function or exercising a power under the Act **must** comply with this policy.

This policy **must** be read in conjunction with the relevant provisions of the Act.

Clinicians should work collaboratively with and in partnership with patients to ensure their unique age-related, cultural and spiritual, gender-related, religious and communication needs are recognised, respected and followed to the greatest extent practicable. Clinicians should consider the timely involvement of appropriate local supports and provide treatment and care with a recovery-oriented focus.

This policy **must** be implemented in a way that is consistent with the objects and principles of the Act.

¹ A relevant patient is an involuntary patient subject to a treatment authority, forensic order or treatment support order, or person from interstate detained in an AMHS.

Policy

1 Application of ECT provisions

Key points

ECT may only be performed in the following circumstances:

- with the informed consent of an adult patient
- for an adult who is unable to give informed consent – with the approval of the MHRT
- for a minor – with the approval of the MHRT, or
- for certain involuntary patients in emergency circumstances (see section 4).

ECT may only be performed in an AMHS.

It is an offence to perform ECT other than in accordance with the Act.

[The Queensland Health Guidelines for the Administration of Electroconvulsive Therapy](#) outline a consistent, evidence-based approach to the administration of ECT.

2 Performance of ECT with consent

ECT may be performed with the informed consent of an adult patient.

Informed consent for ECT is given by a person only if:

- the person has capacity to give consent to the treatment, and
- the consent is in writing, signed by the person, and
- the consent is given freely and voluntarily.

A minor, or their parent or guardian, **cannot give consent** to undertake ECT.

2.1 Requirements for informed consent

Key points

The requirements for obtaining informed consent are established under the [Queensland Health Guidelines for the Administration of Electroconvulsive Therapy](#).

The Act also requires that before informed consent can be provided, the doctor proposing the treatment **must** give the person a full explanation, in a form and language able to be understood by the person, about:

- the purpose, method, likely duration and expected benefit of the treatment, and
- possible pain, discomfort, risks and side effects associated with the treatment, and
- alternative methods of treatment available to the person, and
- the consequences of not receiving treatment.

Informed consent **must be documented** on the [Consent Agreement for Electroconvulsive Therapy form](#). Once completed, the Agreement must be uploaded on the patient's clinical record in CIMHA.

2.1.1 Individuals subject to a Treatment Authority

In making a Treatment Authority, an authorised doctor has determined that a person does not have capacity to consent to treatment for their mental illness. However, a person's lack of capacity to consent to treatment for their mental illness does not automatically apply to regulated treatments, including ECT, and an assessment as to whether the person on a treatment authority can give informed consent to ECT must be made.

If a person on a Treatment Authority is assessed by an authorised doctor as having capacity to provide informed consent to ECT, given the particular vulnerabilities that a person on a Treatment Authority may have in relation to providing consent to treatments, it is recommended that a second opinion be sought, including by clinical review. Such opinion should consider both capacity to give informed consent to ECT and whether the treatment criterion that the person does not have capacity to be treated for their mental illness continues to be met.

If an authorised doctor cannot determine that a person on a Treatment Authority has capacity, the matter should be referred to the MHRT for a decision.

If an authorised doctor determines that a patient on a Treatment Authority has capacity to consent to ECT, this assessment must be reviewed prior to each treatment of ECT and be documented on the patient record (i.e. progress note). If, within the patient's course of ECT, they are assessed as not having capacity, the matter should be referred to the MHRT for a decision prior to the next ECT treatment being given.

2.1.2 Advance Health Directives

The Act states that, for an adult patient, informed consent for ECT can be provided in an [Advance Health Directive](#) (AHD).

A patient's capacity to provide informed consent for ECT should be assessed in the first instance before consideration of consent provided in an AHD.

If the patient has lost the capacity to provide informed consent for ECT and an AHD directs that ECT **can** be performed, the doctor may still apply to the MHRT for approval to perform ECT if not satisfied consent provided in an AHD can be relied upon in the circumstances.

If the patient has lost the capacity to provide informed consent for ECT and an AHD directs that ECT **cannot** be performed, the doctor may still apply to the MHRT for approval to perform ECT.

Key points

- The MHRT in making their decisions must have regard to the directions given by the patient in the AHD.
- The doctor must inform the MHRT of the direction provided for in the patient's AHD.

The [Guardianship and Administration Act 2000](#) establishes ECT as 'special health care'.

- Consent for ECT **cannot** be given by a substitute decision maker or the Queensland Civil and Administrative Tribunal (QCAT).

3 Performance of ECT with MHRT approval

Key points

A doctor may apply to the MHRT for approval to perform ECT if:

- the patient is an adult and
 - the doctor is satisfied they are unable to give informed consent to the ECT, and
 - consent to ECT has not been provided in an AHD or the doctor is not satisfied consent provided in an AHD can be relied upon under the circumstances, or
- the patient is a minor.

Prior to a doctor making an application to the MHRT, a psychiatrist must prescribe ECT, having regard to the person's clinical condition, treatment history and any known views, wishes and preferences that the patient may have, or had in the past, in relation to ECT.

When making a decision about appropriateness of ECT, the patient's support person/s (see definitions) should be contacted to discuss any known views, wishes and preferences that the patient may have had in the past in relation to ECT.

It is recommended that a second opinion from another psychiatrist be obtained to inform the doctor's decision about applying for ECT.

- If obtained, the second opinion must accompany any application to the MHRT.

The doctor must complete a [Treatment Application - ECT](#) when making an application to the MHRT.

- The application form is available as a clinical note in CIMHA.

The doctor must provide the [Treatment Application - ECT](#) to the administrator of the AMHS. The administrator must forward the application to the MHRT without delay.

The doctor making the [Treatment Application – ECT](#) **must** to the extent practicable, tell the patient the application has been made and explain the application to the patient. The application **must** also be explained to the person's support person/s.

An application for ECT **must** be heard by the MHRT within **fourteen (14) days** of receiving the [Treatment Application - ECT](#).

The MHRT requires the [Treatment Application - ECT](#) at least **seven (7) days** before a scheduled hearing date.

On receipt of the application, the MHRT **must** notify the following people of the hearing date:

- the subject of the application,
- the doctor who made the application, and
- the administrator of the treating AMHS.

4 Performance of ECT in an emergency

Key points

ECT may be performed in an emergency for a relevant patient.

A relevant patient is:

- subject to a Treatment Authority, Forensic Order or Treatment Support Order, or
- absent without permission from an interstate mental health service and detained in an AMHS.

The performance of ECT in an emergency can only occur if:

- a doctor for an AMHS and the senior medical administrator of the patient's treating health service have certified in writing ([Certificate to Perform Emergency ECT](#)) that performing ECT is necessary to:
 - save the patient's life, or
 - prevent the patient from suffering irreparable harm, and
- a [Treatment Application - ECT](#) has been made to the MHRT but is not yet decided.

The [Certificate to Perform Emergency ECT](#) must be completed electronically in CIMHA or, if this is not practicable, completed in hard copy and uploaded to CIMHA.

A [Certificate to Perform Emergency ECT](#) is in force for the period:

- starting on the day the Treatment Application - ECT to the MHRT was made, and
- ending on the day the Treatment Application - ECT is determined by the MHRT.

If a [Certificate to Perform Emergency ECT](#) is made, the MHRT must hear the [Treatment Application - ECT](#) as soon as practicable.

A [Treatment Application - ECT](#) to the MHRT may be made before, or at the time of, the [Certificate to Perform Emergency ECT](#) being made.

- There may be clinical circumstances where the [Certificate to Perform Emergency ECT](#) is completed after a [Treatment Application - ECT](#) has already been lodged with the MHRT.

The doctor must immediately provide the document/s to the AMHS administrator.

The AMHS administrator must immediately forward the document/s to the MHRT.

The doctor making the [Certificate to Perform Emergency ECT](#) must, to the extent practicable:

- tell the patient the Certificate has been made, and
- explain the Certificate to the patient.

The Certificate must also be explained to the person's support person/s.

The clinical rationale for the emergency performance of ECT must be provided on the [Certificate to Perform Emergency ECT](#) and documented in a clinical note.

Particular attention should be given to documenting the rationale and modified treatment plan in circumstances where a [Certificate to Perform Emergency ECT](#) is made after a [Treatment Application – ECT](#) was lodged with the MHRT.

5 MHRT decisions for treatment applications

Key points

The MHRT cannot approve an application to perform ECT unless satisfied:

- the performance of ECT on the patient is in their best interests, and
- evidence supports the effectiveness of ECT for the patient's particular mental illness, and
- if ECT has previously been performed on the patient – of the effectiveness of ECT for the patient, and
- if the patient is a minor – evidence supports the effectiveness of ECT for persons of the patient's age.

In deciding a [Treatment Application – ECT](#), the MHRT **must** have regard to:

- if the Application relates to an adult – any views, wishes and preferences the adult has expressed about the therapy in an AHD.
 - In making the Application the doctor should also identify the views, wishes and preferences expressed by the adult at other times or in other documents (e.g. clinical notes) and ensure these are reflected in the Application.
- if the Application relates to a minor – the views of the minor's parents and the views, wishes and preferences of the minor.

If the MHRT decides to approve the Application, its decision must state the number of treatments that may be performed in a stated period under the approval, and any conditions the MHRT considers appropriate.

The MHRT **must** notify the following people of their decision within **seven (7) days** of the hearing:

- the person the subject of the Application
- the doctor who made the Application, and
- the Administrator of the treating AMHS.

In giving its decision, the MHRT **must** provide information about entitlements to seek reasons for the MHRT decision and to appeal the decision to the Mental Health Court.

5.1 Legal representation and support

The MHRT **must** appoint legal representation for patients at no cost for all hearings where a [Treatment Application – ECT](#) is being considered.

The [MHRT website](#) provides further information regarding the process of appointing legal representation.

A patient may also be accompanied at the MHRT hearing by a support person. Support person includes an appointed Nominated Support Person or a family member, carer or other support person. With the leave of the MHRT, more than one support person may attend the hearing.

Issued under section 305 of the *Mental Health Act 2016*

Dr John Reilly

Chief Psychiatrist, Queensland Health

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Definitions and abbreviations

Term	Definition
AMHS	Authorised Mental Health Service – a health service, or part of a health service, declared by the Chief Psychiatrist to be an authorised mental health service. AMHSs include both public and private sector health services. While treatment and care is provided to both voluntary and involuntary patients, additional regulation applies under the Act for persons subject to involuntary treatment and care.
CIMHA	Consumer Integrated Mental Health Application – the statewide mental health database which is the designated patient record for the purposes of the Act.
ECT	Electroconvulsive therapy
MHRT	Mental Health Review Tribunal
QCAT	Queensland Civil and Administrative Tribunal
Patient	<ul style="list-style-type: none"> • An involuntary patient, or • A person receiving treatment and care for a mental illness in an AMHS, other than as an involuntary patient, including a person receiving treatment and care under and Advance Health Directive or with the consent of a personal guardian or attorney.
Support person	An appointed nominated support person or, if the person does not have a nominated support person, a family member, carer or other support person.

Referenced forms, clinical notes and templates

Form: [Treatment Application – ECT](#)

Form: [Certificate to Perform Emergency ECT](#)

Form: [Consent Agreement for Electroconvulsive Therapy](#)

Referenced documents and sources

[The Queensland Health Guidelines for the Administration of Electroconvulsive Therapy](#)

[Mental Health Act 2016](#)

[Guardianship and Administration Act 2000](#)

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Attachment 1 – Key contacts

Key contacts	
Office of the Chief Psychiatrist	Phone: 07 3328 9899 / 1800 989 451 Email: MHA2016@health.qld.gov.au
Local Independent Patient Rights Adviser	Phone: Email:
Office of the Public Guardian	Phone: Email:
Mental Health Review Tribunal	Phone: Email:
	Phone: Email:
	Phone: Email:
	Phone: Email:
	Phone: Email:
	Phone: Email: