

# Treatment Authorities

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## General

If a person is not able to consent to treatment of their mental illness, an authorised doctor may make a Treatment Authority to authorise involuntary treatment for the person.

The doctor must be satisfied that the treatment criteria apply and that there is no less restrictive way of providing treatment and care for the person. The person's views, wishes and preferences are considered.

A Treatment Authority is made by the authorised doctor who has assessed the person under a Recommendation for Assessment (see *Chief Psychiatrist Policy Examinations and Assessments*).

An authorised doctor may also examine a person to make a Treatment Authority if:

- the person is subject to an Examination Order made by a Magistrate, or
- the person is subject to an interstate order (i.e. an order made under a corresponding law that provides for similar matters to a Treatment Authority) if an authorised mental health service (AMHS) Administrator has agreed to transfer responsibility for the patient to the AMHS (see *Chief Psychiatrist Policy Transfers and transport*).

A Treatment Authority can also be made by the Mental Health Review Tribunal (Tribunal) in circumstances where the Tribunal decides to revoke a Forensic Order or Treatment Support Order and an authorised psychiatrist recommends the making of a Treatment Authority. Refer to the *Chief Psychiatrist Policy Forensic Orders and Treatment Support Orders: Amending category, conditions and limited community treatment*.

## Scope

This policy is mandatory for all 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 (Chapters 2 and 7), and the *Chief Psychiatrist Policy Treatment criteria, assessment of capacity, 'less restrictive way' and advance health directives*.

Staff should work collaboratively and in partnership with individuals in their care 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. This should include the timely involvement of appropriate local supports and a recovery-oriented focus.

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

**This policy is issued under section 305 of the *Mental Health Act 2016***

**Dr John Reilly**  
**Chief Psychiatrist, Queensland Health**

# Policy

## 1 Making a Treatment Authority

An authorised doctor can only make a Treatment Authority if satisfied that:

- the treatment criteria apply to the person, and
- there is no less restrictive way for the person to receive treatment and care for the mental illness.

### 1.1 Treatment criteria and less restrictive way

#### 1.1.1 Treatment criteria

##### Key points

The treatment criteria include **all** of the following:

- the person has a mental illness,
- the person does not have capacity to consent to be treated for the illness, and
- because of the person's illness, the absence of involuntary treatment or the absence of continued involuntary treatment, is likely to result in:
  - imminent serious harm to the person or others, or
  - the person suffering serious mental or physical deterioration.

#### Mental illness

A mental health assessment will involve a clinical assessment and information gathering across a number of areas, including presenting problems, current functioning, medical, family, psychiatric and developmental history, forensic and legal history and substance use.

The unique cultural, communication and other needs of Aboriginal and/or Torres Strait Islander peoples and those from culturally diverse backgrounds **must** always be recognised and taken into account.

A mental state examination **must** also be conducted. The Act provides a clear definition of mental illness, including examples of matters that do not indicate the presence of a mental illness.

#### Capacity to consent

The Act requires that clinicians presume that a patient has capacity to give or withhold consent to treatment. The principles of supported decision-making apply to assessing capacity, i.e. the person is taken to have capacity to make decisions if the person has capacity with the assistance of someone else.

The Act provides a clear test, outlining all the relevant elements that **must** be addressed in a capacity assessment.

### **Risk assessment**

In determining risk of the person suffering serious mental or physical deterioration, consideration is to be given to the nature and course of the illness and the patient's clinical history.

Risk of harm is not limited to risk of physical injury or deterioration in physical health. Clinicians should consider the risk of psychological and emotional harm, as well as adverse financial or social impacts, particularly where these are of a significant nature.

Refer to the *Chief Psychiatrist Policy Treatment criteria, assessment of capacity, less restrictive way and advance health directives*, for further detail on the application of the treatment criteria.

### **1.1.2 Less restrictive way**

The 'less restrictive way' of receiving treatment and care requires consideration to be given to alternative consent mechanisms before a Treatment Authority is made.

#### **Key points**

The authorised doctor **must** decide whether the person's treatment and care needs can be met in one of the following ways:

- if the person is a minor – with the consent of a parent,
- under an Advance Health Directive (AHD)— with the consent provided in the directions or with the consent of an attorney appointed under the AHD,
- with the consent of a guardian appointed for the person,
- with the consent of an attorney appointed under an Enduring Power of Attorney (EPOA), or
- with the consent of a statutory health attorney<sup>1</sup>.

The authorised doctor **must** consider the options in the order listed above.

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<sup>1</sup> A statutory health attorney is not appointed by the person. Therefore, consideration should be given to treating the person under a Treatment Authority and the extensive oversight and protections afforded by the Act, rather than providing inpatient treatment and care with consent of a statutory health attorney. See also, *Chief Psychiatrist Policy Treatment Criteria, Assessment of Capacity, Less Restrictive Way and Advance Health Directives*.

If the person is an adult, the authorised doctor **must** make reasonable efforts to determine if the person has an AHD or an appointed attorney or guardian. This includes:

- checking the 'External Contacts' and 'AHD/Sub Dec Maker' tabs in the Consumer Integrated Mental Health and Addiction (CIMHA) application, and
- asking the person, and any other person accompanying the person
  - whether an AHD has been made, or
  - whether an attorney or guardian has been appointed to make health care decisions for the person.

'Reasonable efforts' will take account of the clinical circumstances; in particular, urgency and any risks associated with delaying treatment.

In all circumstances, the authorised doctor's decision about whether to make a Treatment Authority or rely on an alternative consent mechanism **must** be consistent with appropriate and safe clinical practice and with consideration of the person's views, wishes and preferences.

Refer to the *Chief Psychiatrist Policy Treatment criteria, assessment of capacity, less restrictive way and advance health directives*, for further detail on less restrictive ways of obtaining consent to provide treatment.

## 1.2 Requirements on making a Treatment Authority

### Key points

On making a Treatment Authority, the authorised doctor **must** state:

- The grounds for making the Treatment Authority including the reasons the authorised doctor believes the treatment criteria apply and that there is no less restrictive way to provide treatment for the mental illness, and
- the AMHS responsible for providing treatment and care, and
- the category of the Treatment Authority, and
- if the category is inpatient, whether limited community treatment (LCT) is authorised for the patient, and
- any conditions necessary for the patient's treatment and care.

In addition, the authorised doctor **must** decide the nature and extent of treatment and care to be provided to the patient.

In deciding the treatment and care, the doctor **must** have regard to the person's views, wishes and preferences including, for example, those expressed in an AHD.

## 1.3 Category of Treatment Authority

The authorised doctor must decide if the category of the Treatment Authority is community or inpatient.

### Key points

The Treatment Authority category **must** be community unless, having regard to the relevant circumstances of the patient, the authorised doctor considers that one or more of the following cannot reasonably be met under a community category:

- the patient's treatment and care needs
- the safety and welfare of the patient
- the safety of others.

If the patient is a classified patient, the category of the Treatment Authority **must** be inpatient while the person is at the AMHS (see *Chief Psychiatrist Policy Classified patients*).

**Relevant circumstances** of the person mean:

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

The authorised doctor cannot determine that the patient receive treatment at a High Security Unit under an inpatient category without the prior written approval of the Chief Psychiatrist.

### 1.3.1 Limited community treatment

If the category of the Treatment Authority is inpatient, the authorised doctor **must** decide whether to authorise LCT.

LCT can only be authorised if the authorised doctor is satisfied it is appropriate having regard to:

- the relevant circumstances of the patient, and
- the purpose of the LCT.

## Key points

If LCT is authorised, the authorised doctor **must** state:

- the type of LCT i.e. on grounds, off grounds or overnight,
- whether the patient is to be escorted (i.e. with a health service employee) or supervised (i.e. in the company of a person nominated by the authorised doctor),
- the conditions of LCT,
- the actions to be taken if the patient does not comply with conditions,
- the duration of the LCT (NB: leave cannot be more than **seven (7)** consecutive days), and
- the duration of the authorisation.

If the patient accesses LCT under the authorisation, the details **must** be recorded on a *Limited community treatment access and return* form.

### 1.3.2 Conditions of Treatment Authority

The authorised doctor may, if necessary, for the patient's treatment and care, specify conditions on the Treatment Authority.

Conditions are most likely to be applied to patients receiving treatment and care on a community category. For example, the authorised doctor may specify that the patient is to attend regular appointments and take prescribed medication.

Consideration must be given to the possible impact that any conditions may have on the person's human rights. Conditions imposed must be least restrictive of rights and only to the extent necessary to address identified treatment and care needs or to address risk issues. When a patient's human rights will be affected, the decision-making process of how the relevant rights were considered needs to be documented in the treatment plan together with an explanation of the necessity of the conditions for the patient's treatment and care.

## 1.4 Authorised psychiatrist review of Treatment Authority

If the Treatment Authority was made by an authorised doctor who is not a psychiatrist, an authorised psychiatrist **must** undertake a review to decide whether to confirm or revoke the Treatment Authority.

The authorised psychiatrist must undertake the review within **three (3) days** after the Treatment Authority is made. If the service has been declared by the Chief Psychiatrist to be an AMHS (rural and remote) the review must be conducted within **seven (7) days**.

An authorised doctor who is not a psychiatrist **cannot** revoke the Treatment Authority during this period. Only the authorised psychiatrist may revoke the Treatment Authority after reviewing the patient within this **three (3) day** period, including by audio-visual technology if the authorised psychiatrist considers it clinically appropriate in the circumstances. This ensures an authorised psychiatrist has considered the appropriateness of continuation of the Treatment Authority at the time of initiation.

### 1.4.1 Notice to attend for psychiatrist review

The authorised doctor who made the Treatment Authority may give the patient written notice to attend for the authorised psychiatrist's review e.g. if the Treatment Authority is made for a patient residing in the community.

#### Key points

The notice to attend **must** set out the AMHS or public sector health service facility (PSHSF) and the date and time the patient is required to attend. A template letter is available in CIMHA for this purpose.

Giving the patient notice to attend:

- protects against the Treatment Authority ending at **three (3) days** if the patient does not attend as required,
- enables the person to be taken to the AMHS or PSHSF if the person does not attend as required (see *Chief Psychiatrist Policy Managing involuntary patient absences*), and
- enables the patient's detention for up to **six (6) hours** from when the patient first attends the AMHS or PSHSF for the assessment.

If the patient has an appointed nominated support person, guardian or attorney, they **must** also be provided with a copy of the notice.

If the patient may not understand the notice and does not have an appointed nominated support person, guardian or attorney, the treating doctor should consider the likely views, wishes and preferences of the patient, and safe clinical practice to determine whether the notice should be provided to another support person e.g. a family member.

- However, the notice cannot be provided to another person if the patient has asked that the communication with the person not occur.
- If the patient is a minor, a copy of the notice can be given to a parent if the patient may not understand the information and providing the notice appears to be in the patient's best interests.

## 1.4.2 Authorised psychiatrist decisions on review

The authorised psychiatrist **must** decide whether to confirm or revoke the Treatment Authority.

### Key points

The Treatment Authority can only be confirmed if the authorised psychiatrist is satisfied:

- the treatment criteria apply to the person and,
- there is no less restrictive way for the person to receive treatment and care for the mental illness.

If the Treatment Authority is confirmed, the authorised psychiatrist **must** decide whether to:

- change the category of the Treatment Authority, and
- grant LCT under the Treatment Authority, and/or
- impose conditions on the Treatment Authority, and
- the nature and extent of treatment and care to be provided to the patient.

The requirements set out in section 1.2 of this policy apply equally to the authorised psychiatrist's decision.

The authorised psychiatrist's decision to confirm or revoke the Treatment Authority **must** be recorded on the *Treatment Authority* form in CIMHA, or if completed in hard copy, uploaded to CIMHA.

If the Treatment Authority is revoked, the reasons for the revocation **must** also be recorded on the form.

In addition, if the authorised psychiatrist decides to amend the Treatment Authority (i.e. a change to category, LCT, or conditions of the Authority), an *Order/Authority amendment* form **must** be completed to reflect the change.

## 1.4.3 Treatment Authority not confirmed or revoked by authorised psychiatrist

It is the expectation of the Chief Psychiatrist that an authorised psychiatrist review will occur to ensure appropriate access to treatment and care for the person.

If the Treatment Authority is not confirmed or revoked by an authorised psychiatrist within the **three (3) day** period (or **seven (7) days** if made at an AMHS (rural and remote)), the Treatment Authority ceases at the end of the period and the person can no longer be detained at the AMHS.

Reasons why the review did not occur must be recorded on the patient's clinical record.

The Treatment Authority does not cease if the patient was given a notice to attend (see 1.4.1) and does not attend for the psychiatrist's review. In this instance:

- efforts **must** be made to ensure the patient's attendance for the authorised psychiatrist's review at the earliest possible time, and
- an authorised psychiatrist may revoke the Treatment Authority if the AMHS is not able to locate the patient for a period of at least **six (6) months**.

## 1.5 Providing information to patient and others

### 1.5.1 Providing information about Treatment Authority

#### Authorised Doctor responsibilities

##### Key points

The authorised doctor who makes the Treatment Authority or the authorised psychiatrist who reviews the Treatment Authority **must**, as soon as practicable:

- tell the patient about the decision and explain the effect of the decision, and
- discuss the treatment and care to be provided.

If a Treatment Authority was made for a patient with an AHD, the authorised doctor/psychiatrist **must** explain why the authority was made and record the reasons in the patient's clinical records.

If the decision to treat the person is contrary to the views, wishes and preferences stated in an AHD, the authorised doctor **must** explain to the person why this decision was made and record the reasons in the patient's clinical records (CIMHA).

The explanation about making a Treatment Authority and/or not following an AHD may be given at a later time if the authorised doctor/psychiatrist considers the patient would better understand the explanation at a later time.

If, having given the explanation, the authorised doctor/psychiatrist considers the patient requires further assistance to understand the information, the authorised doctor/psychiatrist may seek the assistance of an Independent Patient Rights Adviser to assist the patient's understanding of the Treatment Authority and its effect.

Unless an exception applies, the authorised doctor/psychiatrist **must** also tell and explain their decision:

- to the patient's appointed nominated support person/s, or
- if the patient has not appointed a nominated support person, to one or more of the patient's family, carers or other support persons.

The requirement to tell and explain their decision also applies to section 1.5.2 and 2.1.

## Administrator responsibilities

### Key points

If a Treatment Authority is made or confirmed by an authorised psychiatrist, the administrator **must** within **seven (7) days** of the making or confirmation of the authority, provide a copy to:

- the patient, and
- if requested, the patient's appointed nominated support person/s, and
- if requested, a guardian appointed for personal matters or an attorney appointed under an AHD or EPOA.

If the Treatment Authority is made by an authorised doctor who is not a psychiatrist, the administrator **must** provide a copy of the authority on request of the patient or a request by one of the categories of support persons listed above.

The administrator **must** ensure that appropriate arrangements are in place at the AMHS to ensure the timely provision of the Treatment Authority when a request is made. For example, the administrator may delegate the responsibility to provide the written notice of the Treatment Authority to authorised doctors.

The Treatment Authority is to be given with a covering letter that provides contact details for a relevant clinician and, for public sector AMHSs, an Independent Patient Rights Adviser. A template letter is available in CIMHA for this purpose.

The administrator **must** also send a copy of the Treatment Authority to the Tribunal within **seven (7) days** of it being made.

## 1.5.2 Providing information about treatment in the community

Treatment in the community includes circumstances where the patient is:

- receiving treatment under a community category, or
- authorised to have LCT under an inpatient category.

### Key points

The authorised doctor **must** provide the patient with an explanation and written information about their treatment in the community, in particular:

- the treatment and care to be provided to the patient e.g. fortnightly home visit, monthly appointment with authorised doctor, etc; and
- the patient's obligations while receiving LCT e.g. to take prescribed medication.

The requirement to provide written information does not apply if the patient is only authorised to have escorted LCT, however the information should still be explained to the patient.

For LCT, the information only needs to be provided once for each type of LCT. For example:

- if the patient is authorised to have day leave for **three (3) days** in the week, the information is to be given prior to the first day of leave and not on each subsequent day.

The AMHS administrator must ensure appropriate arrangements are in place to provide patients and their support person/s with information about treatment in the community.

Written information may be provided in a range of ways. For example:

- for a patient undertaking LCT, providing the patient with a copy of the *Order/Authority amendment* form setting out conditions and consequences for not complying with LCT, or
- for a patient whose Treatment Authority category is changed to community, providing the patient with a copy of the *Care Plan* clinical note which makes provision for recording treatment and care to be provided as well as the patient's obligations in receiving treatment and care in the community.

## 1.6 Documentation requirements

The Treatment Authority **must** be completed electronically in CIMHA or, if this is not possible, completed in hard copy and uploaded to CIMHA.

The AMHS administrator **must** ensure timely upload of the Treatment Authority to CIMHA and retain a copy on any hard copy clinical records.

In addition, a record of the assessment/s made by the authorised doctor and/or authorised psychiatrist **must** be documented in, or uploaded to, CIMHA clinical notes.

## Key points

The documentation is to include:

- a record of the information obtained and considered in determining whether the treatment criteria applied,
- if the patient had an AHD, whether the AHD was relied upon to provide consent or the reasons the AHD was not followed,
- if the patient had an alternate decision maker, the actions taken to contact and/or obtain consent and the outcome of those actions (including consent to treatment and/or detention if provided), or the reasons why action was not taken,
- the treatment and care to be provided to the patient,
- if a Treatment Authority was made, the date of the first regular assessment of the patient (see 2.1 *Regular assessment by authorised doctor*), and
- the information provided to the patient, and where relevant, their support person/s, or the reasons for not providing the information.

An *Involuntary Patient and Voluntary High-Risk Patient Summary* clinical note **must** be completed in CIMHA as soon as practicable.

If, in the course of the assessment, the authorised doctor/psychiatrist identifies an AHD, EPOA or Queensland Civil and Administrative Tribunal decision that is not already recorded in CIMHA, the document **must** be uploaded to CIMHA as soon as practicable. (Refer to *CIMHA Clinician Handbook Vol 6: MHA 2016*.)

## 2 Treatment and care under a Treatment Authority

A multidisciplinary team approach is essential to ensuring the best possible outcomes for patients. Treatment and care are also subject to clinical governance arrangements that ensure the quality and safety of services provided.

Within this context, the Act establishes specific requirements for treatment and care under a Treatment Authority.

### 2.1 Regular assessment by authorised doctor

The following requirements relate to regular assessment of a person subject to a Treatment Authority once confirmed by an authorised psychiatrist.

A patient subject to a Treatment Authority **must** be regularly assessed by an authorised doctor at intervals of not more than **three (3) months**.

The initial assessment must be made on or before the date the Treatment Authority was made (see 1.6 Documentation requirements).

An assessment must also be undertaken if, at any time, the authorised doctor considers that the treatment criteria may no longer apply, or there may be a less restrictive way for the patient to receive treatment and care (see 3.2 Revocation by authorised doctor).

## Key points

In making an assessment (i.e. on a scheduled assessment or an assessment made at an earlier time), the authorised doctor **must** decide:

- whether the treatment criteria continue to apply,
- whether there is a less restrictive way for the patient to receive treatment and care, and
- if the Treatment Authority continues, whether any changes are required to the category of the Authority, LCT arrangements (if inpatient category) or the conditions of the Authority (see 1.3 Category of Treatment Authority).

In addition, the authorised doctor **must** ensure the treatment and care provided continues to be appropriate for the patient's treatment and care needs.

The authorised doctor **must** discuss the assessment and the patient's treatment and care with the patient.

The authorised doctor's assessment and decisions regarding the person's treatment and care **must** be recorded in the patient's clinical record on CIMHA. The authorised doctor's communication with the patient and support person/s **must** also be documented.

In addition, the authorised doctor **must** determine and record the date of the patient's next assessment by an authorised doctor.

## 2.2 Mental Health Review Tribunal reviews

### Key points

The Tribunal must conduct regular reviews of the patient's Treatment Authority as follows:

- an initial review within **twenty-eight (28 days)** of the Treatment Authority being made,
- a second review within **six (6) months** of the initial review,
- a third review within **six (6) months** of the second review, and
- thereafter at intervals of not more than **twelve (12) months**.

In addition, a review may be made on the Tribunal's own initiative or on an application made by the patient, their appointed nominated support person/s or another person with sufficient interest, or the Chief Psychiatrist.

The Tribunal **must** decide whether to confirm or revoke the Treatment Authority and may change the category, conditions or LCT arrangements of the Authority.

In addition, the Tribunal may order the patient's transfer to another AMHS. The patient's current AMHS administrator is responsible for ensuring that a Tribunal's order for the transfer of a patient to the receiving AMHS is given effect.

The authorised psychiatrist is responsible for ensuring that a clinical report is prepared for the purposes of the Tribunal review.

- A *Tribunal Clinical Report - Treatment Authority Review* clinical note **must** be completed in CIMHA and provided to the patient and the Tribunal at least **seven (7) days** prior to the Tribunal hearing.
- The authorised psychiatrist must provide an explanation and discuss the contents of the report with the patient in a way the patient can best understand it.
  - However, the report is not required to be given to the patient if the authorised psychiatrist intends to request a confidentiality order for the report.

Additional reporting requirements apply to the second **six (6) monthly** Tribunal review:

- If the patient does not have an appointed guardian for health care, the administrator **must** provide a report to the Tribunal about whether the appointment of such a guardian may result in there being a less restrictive way for the person to receive treatment and care.
  - The administrator's report may be annexed to the clinical report or provided separately to the Tribunal.

### 2.2.1 Notification to the Tribunal of patient absence

If a patient is absent without approval, the Tribunal **must** be notified in the **seven (7) days** prior to their Tribunal hearing. The notification is made so the Tribunal may determine whether the hearing should be adjourned or proceed in the patient's absence (where appropriate).

The administrator **must** also notify the MHRT as soon as practicable of the patient's return. The MHRT **must** schedule a new hearing **within twenty-one (21) days** after receiving the return notification.

See *Chief Psychiatrist Policy Managing involuntary patient absences*.

## 2.3 Amending category, conditions or limited community treatment

An authorised doctor can amend the Treatment Authority following an assessment, or at any time they determine that a change to category, conditions or LCT is required.

The amendment is to be recorded on an *Order/Authority amendment* form. The form **must** be completed electronically in CIMHA or, if this is not possible, completed in hard copy and uploaded to CIMHA.

The authorised doctor **must** discuss the amendment with the patient.

If the amendment results in the patient receiving treatment in the community (e.g. change of category to community or increase in LCT) the authorised doctor **must** provide the patient with an explanation and written information about treatment in the community (see 1.5.2 Providing information about treatment in the community).

Reasonable steps must be taken to ensure the patient understands the information. This may include, use of an interpreter or other methods of communication, such as sign language, written explanations or explanation with assistance from a support person.

The amendment and information about treatment in the community **must** also be discussed with the patient's support person/s unless the authorised doctor considers that an exception to providing the information applies.

### 2.3.1 Amending category of Treatment Authority

#### Key points

The authorised doctor can only change the category of the Treatment Authority from community to inpatient if, having regard to the relevant circumstances of the patient, the authorised doctor considers that one or more of the following cannot reasonably be met under a community category:

- the patient's treatment and care needs
- the safety and welfare of the patient
- the safety of others.

If the category of the Treatment Authority is community, the Tribunal **must**, on review of the Authority, decide whether an authorised doctor may reduce the extent of the person's treatment in the community.

If the Tribunal determines the extent of treatment in the community **can** be reduced:

- the authorised doctor may amend the category from community to inpatient as required having regard to the above criteria.

If the Tribunal determines the extent of treatment in the community **cannot** be reduced:

- The authorised doctor may only amend the category from community to inpatient if they believe there has been a material change in the person's mental state and the patient requires urgent treatment and care as an inpatient.
- If the category is amended to inpatient, the AMHS Administrator **must**, as soon as practicable, give written notice to the Tribunal by providing a copy of the Order / Authority amendment form.
- The Tribunal **must** conduct a review of the Treatment Authority with **fourteen (14) days** of receiving the notice.

- If the category is changed back to community before the Tribunal review, the AMHS Administrator **must**, as soon as practicable, provide a copy of the Order / Authority amendment to the Tribunal. In these circumstances, a Tribunal review is not required.

### 2.3.2 Amending limited community treatment

#### Key points

An amendment to LCT can only be made if the authorised doctor is satisfied it is appropriate having regard to:

- the relevant circumstances of the patient, and
- the purpose of the LCT.

If LCT is amended, the authorised doctor **must** state:

- the type of LCT (i.e. on grounds, off grounds or overnight)
- whether the patient is to be escorted (i.e. with a health service employee) or supervised (i.e. in the company of a person nominated by the authorised doctor),
- the conditions of LCT,
- the actions to be taken if the patient does not comply with conditions,
- the duration of the LCT (NB: overnight leave cannot be more than seven (7) consecutive nights), and
- the duration of the authorisation.

If the category of the Treatment Authority is inpatient, the Tribunal may, on review of the Treatment Authority, approve or extend LCT for the person.

- If the Tribunal approves or extends LCT, the Tribunal **must** decide whether an authorised doctor may reduce the extent of the person's treatment in the community.
- If the Tribunal has determined that the extent of treatment in the community cannot be reduced, an authorised doctor's amendment to LCT arrangements cannot be contrary to the Tribunal's decision.

If the patient accesses LCT under the authorisation, the details **must** be recorded on a *Limited community treatment access and return form*.

For information regarding interstate transfers under a Treatment Authority refer to the *Chief Psychiatrist Policy Transfers and transport*.

## 3 Revocation of Treatment Authority

If the treatment criteria no longer apply to a person subject to a Treatment Authority, or there is a less restrictive way for the patient to receive treatment and care, the Treatment Authority **must** be revoked.

A Treatment Authority may be revoked by:

- an authorised doctor,
- an authorised psychiatrist,
- the Chief Psychiatrist,
- the Tribunal on a review of the Treatment Authority, or
- the Mental Health Court on an appeal against a Tribunal decision.

### 3.1 Revocation by authorised psychiatrist

An authorised doctor who is not a psychiatrist cannot revoke the Treatment Authority during the initial three (3) day period after the Treatment Authority is made.

Only an authorised psychiatrist may revoke the Treatment Authority after reviewing the patient within this three (3) day period. This ensures an authorised psychiatrist has considered the appropriateness of continuation of the Treatment Authority at the time of initiation.

The review may be by audio-visual technology if the authorised psychiatrist considers it clinically appropriate in the circumstances.

### 3.2 Revocation by authorised doctor

Once the Treatment Authority is confirmed by an authorised psychiatrist, an authorised doctor **must** conduct regular reviews of the patient to confirm that treatment under the Act continues to be appropriate for the person and is the least restrictive option for the person to receive treatment and care for their mental illness.

If the authorised doctor considers that the treatment criteria no longer apply or there is a less restrictive way for the patient to receive treatment and care, the Treatment Authority **must** be revoked.

The authorised doctor is not required to revoke the Treatment Authority if the person's capacity to consent to treatment is not stable.

In determining whether capacity is stable, the authorised doctor **must** consider the nature of the mental illness and the functional approach to the capacity assessment. See the *Chief Psychiatrist Policy Treatment criteria, assessment of capacity, less restrictive way and advance health directives*.

An authorised doctor who is not a psychiatrist **must** consult with an authorised psychiatrist before revoking the Treatment Authority. Confirmation that the consultation has occurred is provided on the *Revocation of Treatment Authority* form.

As soon as practicable after revoking the Treatment Authority, the authorised doctor **must** tell the patient and the patient's support person that the Authority has been revoked.

- Information does not need to be communicated to a support person if the authorised doctor considers that an exception to informing the support person applies.
- A *Revocation of Treatment Authority* form is to be completed electronically in CIMHA or, if this is not possible, completed in hard copy and uploaded to CIMHA.
- A record of the revocation and the basis for the revocation must be documented in, or uploaded to, CIMHA clinical notes.

A Treatment Authority can also be revoked in certain circumstances where the patient is absent from treatment. The Revocation of Treatment Authority can only be made by an authorised psychiatrist who is satisfied that the AMHS has not been able to locate the person for **at least six (6) months**.

### 3.3 Revocation by Chief Psychiatrist

#### Key points

The Chief Psychiatrist may revoke a Treatment Authority if the Chief Psychiatrist considers that the treatment criteria no longer apply or there is a less restrictive way for the patient to receive treatment and care.

The Chief Psychiatrist **must**, as soon as practicable, provide the *Revocation of Treatment Authority* to the AMHS Administrator.

An authorised doctor **must**, as soon as practicable, tell the patient and the patient's support person that the Treatment Authority has been revoked.

- Information is not required to be given to the support person if the authorised doctor considers that an exception to informing the support person applies.

## 3.4 Administrator responsibilities

Within **seven (7) days** of revocation by an authorised doctor or the Chief Psychiatrist, the Administrator **must** give written notice to:

- the patient,
- the patient's appointed nominated support person/s, and
- a guardian appointed for personal matters or an attorney appointed under an AHD or EPOA.

A template letter is available in CIMHA for this purpose.

In addition, the Administrator **must** send a copy of the Revocation of Treatment Authority to the Tribunal within **seven (7) days**.

## 4 Treatment Authority ends

### 4.1 Mental Health Court decisions and existing Treatment Authorities

The Mental Health Court may make a Forensic Order (mental health) or Treatment Support Order for a patient subject to an existing Treatment Authority. In this instance any existing Treatment Authority ends.

The Mental Health Court may make a Forensic Order (disability) for a person subject to an existing Treatment Authority. In this instance the Treatment Authority continues, however, if the Treatment Authority is inconsistent with a condition of the Forensic Order (disability), the Forensic Order (disability) prevails to the extent of the inconsistency.

Refer to the *Chief Psychiatrist Policy Forensic Orders and Treatment Support Orders - amending category, conditions and limited community treatment* for more information.

### 4.2 Transfer to interstate mental health service

When a patient subject to a Treatment Authority is transferred to an interstate mental health service, the Treatment Authority ends when the person leaves Queensland.

Transfer requirements for patients subject to a Treatment Authority are provided in the *Chief Psychiatrist Policy Transfers and transport*.

## 4.3 Administrator responsibilities

Within **seven (7) days** of a Treatment Authority ending, the Administrator **must** give written notice to:

- the patient,
- the patient's appointed nominated support person/s,
- a guardian appointed for personal matters or an attorney appointed under an AHD or EPOA, and
- the Mental Health Review Tribunal.

# Further information

## Definitions and abbreviations

Term	Definition
Advance Health Directive (AHD)	<ul style="list-style-type: none"> <li>AHD – a document stating the person’s wishes and directions about their health care that comes into effect when the person does not have capacity to make health care decisions. The directions may include consent to special health care e.g. electroconvulsive therapy<sup>2</sup>.</li> <li>Attorney under an AHD – an individual/s appointed by the person to exercise power for a health matter in the event that directions in an AHD prove inadequate. A health matter is a matter relating to health care, other than special health care.</li> </ul>
Alternate Decision Maker	An individual/s who is/are authorised to make health care decisions for a person who lacks capacity to consent including, a parent if the person is a minor, an attorney appointed under an Advance Health Directive (AHD) or an Enduring Power of Attorney (EPOA), a guardian appointed by the Queensland Civil and Administrative Tribunal, or a statutory health attorney. Additional definitions/explanation of terms is provided in Attachment 1.
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.
Attorney under an Enduring Power of Attorney (EPOA)	Attorney under an EPOA - an individual/s appointed by the person to do anything in relation to personal matters that the person could have done if the person had capacity for the matter. A personal matter is a matter relating to the person’s care including health care or welfare, excluding special health care.
CIMHA	Consumer Integrated Mental Health and Addiction application– the statewide clinical information system and designated patient record for the <i>Mental Health Act 2016</i> .
Detention/Detained	Means that the person is prevented from leaving the AMHS or PSHSF (for example prevented from leaving an unlocked inpatient unit or refusing the person’s request to leave a locked inpatient unit).
Exceptions to informing support person	Means circumstances where: <ul style="list-style-type: none"> <li>the patient requests that communication with the support person not occur and the authorised doctor considers the patient has capacity to make the request</li> <li>the support person is not readily available or is not willing to communicate</li> <li>or communication with the support person is likely to be detrimental to patient’s health and wellbeing.</li> </ul>

<sup>2</sup> For further information, see *Guide to Advance Health Directives, Enduring Powers of Attorney and Guardians*

Guardian	Guardian - a person appointed by the Queensland Civil and Administrative Tribunal to do, in accordance with the terms of appointment, anything in relation to a personal matter that the individual could have done if the individual had capacity. The person may be appointed to make decisions about all personal matters or specified personal matters e.g. health care (excluding special health care), accommodation, provision of services.
Parent (for a minor)	<p>Minor – a person under the age of 18 years.</p> <p>Parent – includes:</p> <ul style="list-style-type: none"> <li>• a natural or adoptive parent</li> <li>• someone who is subject of a parenting order for the child (under the Family Law Act 1975 (Cwlth))</li> <li>• a guardian of the minor (under the Child Protection Act 1999)</li> <li>• an individual who exercises parental responsibility for the minor, other than on a temporary basis (e.g. child minding)</li> <li>• for an Aboriginal minor – an individual who, under Aboriginal tradition, is regarded as a parent of the minor, and</li> </ul> <p>for a Torres Strait Islander minor – an individual who, under Island custom, is regarded as a parent of the minor.</p>
Purpose of Limited Community Treatment (LCT)	Is to support a patient’s recovery by transitioning the patient to living in the community with appropriate treatment and care.
EPOA	Enduring Power of Attorney
Patient	<ul style="list-style-type: none"> <li>• An involuntary patient, or</li> <li>• 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.</li> </ul>
Statutory Health Attorney	<p>Statutory health attorney – for a health matter, the first in listed order of the following people who is readily available and culturally appropriate for the matter:</p> <ul style="list-style-type: none"> <li>• a spouse of the person if the relationship is close and continuing</li> <li>• an adult (i.e. 18 years or more) who has care of the person and is not a paid carer for the person</li> <li>• an adult who is a close friend or relation of the person and is not a paid carer for the person.</li> </ul> <p>If none of the above listed people is available and culturally appropriate, the Public Guardian is the person’s statutory health attorney for the matter.</p>
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 policies and resources

### Chief Psychiatrist policies

- [Chief Psychiatrist Policy - Examination and assessment](#)
- [Chief Psychiatrist Policy - Classified patients](#)
- [Chief Psychiatrist Policy - Transfers and transport](#)
- [Chief Psychiatrist Policy - Forensic Orders and Treatment Support Orders: Amending category, conditions and limited community treatment](#)
- [Chief Psychiatrist Policy - Treatment criteria, assessment of capacity, less restrictive way and advance health directives](#)
- [Chief Psychiatrist Policy - Managing involuntary patient absences](#)

### Mental Health Act 2016 forms and other resources

- Form: [Limited community treatment access and return](#)
- Form: [Treatment Authority](#)
- Form: [Order / Authority-Amendment](#)
- Form: [Revocation of Treatment Authority](#)
- [Involuntary Patient and Voluntary High-Risk Patient Summary](#)
- [CIMHA Clinician Handbook Vol 6: MHA 2016](#)
- Clinical note: [Clinical Report - Treatment Authority Review](#) (available from [www.mhrt.qld.gov.au](http://www.mhrt.qld.gov.au))
- [Guide to Advance Health Directives, Enduring Powers of Attorney and Guardians](#)
- Mental Health Review Tribunal Clinical Report template: [Written Notice of Relevant Patient's Absence](#)
- Mental Health Review Tribunal Clinical Report template: [Written Notice of Relevant Patient's Return](#)

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## Attachment 1 – Alternate consent options

<b>Alternate consent options (to be considered in the order listed below)</b>	
1	For a minor – a parent
2	Advance Health Directive (AHD)
3	Guardian
4	Attorney under an Enduring Power of Attorney (EPOA)
5	Statutory Health Attorney

See also the [Guide to Advance Health Directives, Enduring Powers of Attorney and Guardians](#) for further information.