

Attachment 2: Mapping out ECT for adult involuntary patients

An authorised doctor is proposing ECT for an involuntary patient, this is someone subject to a treatment authority, forensic order or treatment support order (adults only)

Whilst an involuntary patient can give informed consent to ECT, you will still require MHRT approval to perform ECT.

Check if the involuntary patient currently has capacity to give informed consent to ECT

The involuntary patient has capacity to give informed consent if they can:

- understand the nature and effect of the decision relating to the treatment; and
- freely and voluntarily make the decision; and
- communicate the decision.

A patient can also give informed consent to ECT in an AHD, which can only be relied on if the patient doesn't have capacity at the time.

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

NOTE: If it is not clear if the person has capacity to give informed consent to ECT the doctor may consider obtaining a second opinion from another psychiatrist. For example:

- to confirm the person's current capacity to provide informed consent
- it is suspected the person may not have had capacity when they made an AHD, or
- their AHD appears to be invalid or not clear

The involuntary patient **has** capacity to give informed consent now, or otherwise at the time they made an AHD (with valid and clear directions)

Give a full explanation before seeking informed consent (see sections 233–234 of the *Mental Health Act 2016*)

Before a patient gives informed consent, the doctor proposing ECT must give a full explanation to the patient 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.

As far as possible when preparing an AHD, the involuntary patient's directions should reflect the above.

The involuntary patient **gives** informed consent (including in an AHD)

The doctor must still apply to the MHRT for approval to perform ECT

You need to document consent by the involuntary patient (or via an AHD) in both the *Consent agreement for ECT form*; and MHRT's *Regulated treatment application for ECT form*.

The MHRT may give approval if satisfied the doctor gave the full explanation (noted above) at the time the patient gave informed consent, including when the person made the direction for ECT in an AHD.

Remember, each application to the MHRT is unique and determined on a case-by-case basis.

As soon as practicable after applying for approval, the doctor must:

- tell the patient the application has been made; and
- explain the application to the patient.

The involuntary patient **refuses to give** informed consent

If the involuntary patient has capacity to give informed consent at the time and refuses to give consent, ECT cannot be performed.

Remember to document your capacity assessment (and that the patient refused to give consent).

This does not preclude an application being made to the MHRT or emergency ECT being provided if the criteria are met.

If the voluntary patient does not have capacity to give informed consent at the time but has made a direction in an AHD which refuses to give consent to ECT, the doctor may consider applying to the MHRT for approval to perform ECT, if the doctor is not satisfied the AHD can be relied upon in the circumstances or the AHD appears to be invalid or not clear.

The involuntary patient **does not have** capacity to give informed consent (including via an AHD)

The authorised doctor must apply to the MHRT for approval to perform ECT

An application for ECT must explain why ECT has clinical merit and is appropriate in the circumstances (as well as various other considerations in the MHRT's *Regulated treatment application for ECT form*).

If a second opinion was obtained about the person's capacity to provide informed consent, it must accompany any application to the MHRT.

The doctor must take into account the patient's views, wishes and preferences in an AHD before making an application to the MHRT.

In deciding whether or not to approve ECT, the MHRT must consider any views, wishes and preferences of the patient, whether in an AHD or otherwise.

If applicable, the MHRT may also consider whether the patient had capacity to give informed consent at the time they made an AHD.

Remember, each application to the MHRT is unique and determined on a case-by-case basis.

As soon as practicable after applying for approval, the doctor must:

- tell the patient the application has been made; and
- explain the application to the patient.