

Regulated treatments

The *Mental Health Act 2016* regulates two types of treatment for patients of authorised mental health services—electroconvulsive therapy and non-ablative neurosurgical procedures, such as deep brain stimulation procedures. The Act sets out requirements for the approval and performance of these treatments to ensure appropriate safeguards are in place.

Electroconvulsive therapy (ECT)

ECT is the application of an electric current to specific areas of the head to produce a generalised seizure for the treatment of a mental illness. The seizure is modified by general anaesthesia and the administration of a muscle-relaxing agent.

ECT has efficacy in treating clinical depression, mania and psychosis, and is occasionally used to treat other neuropsychiatric conditions. Its primary purpose is to quickly and significantly alleviate psychiatric symptoms.

Non-ablative neurosurgical procedures

A non-ablative neurosurgical procedure is a procedure on the brain that does not involve deliberate damage to or removal of brain tissue, for the treatment of a mental illness. An example of this is a deep brain stimulation procedure.

Deep brain stimulation was first developed as a treatment for Parkinson's disease to reduce tremor, stiffness, walking problems and uncontrollable movements.

Deep brain stimulation is performed by neurosurgeons and is a treatment for mental illness reserved for patients who can't control their symptoms with medications alone. It is a treatment of last resort.

A procedure on the brain that does involve deliberate damage to or removal of brain tissue (called 'psychosurgery') is prohibited under the Act.

Performing regulated treatments under the Act

It is an offence under the Act to perform ECT or a non-ablative neurosurgical procedure on a person for a mental illness unless it is performed in accordance with the Act.

ECT can only be undertaken in the following circumstances:

- where the patient is an adult—with the patient's informed consent
- where the patient is an adult who cannot give informed consent or is subject to involuntary treatment under the Act—with the approval of the Mental Health Review Tribunal (Tribunal)



- where the patient is a minor—with the approval of the Tribunal, or
- in emergency circumstances.

Non-ablative neurosurgical procedures can only be performed with the informed consent of the adult **and** the approval of the Tribunal.

Informed consent for regulated treatments

To give informed consent to a regulated treatment, an adult must have the capacity to consent to the treatment person must have the capacity to consent to the treatment, meaning they can:

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

The consent must be in writing and signed by the person. A patient can also give informed consent to ECT in an AHD, however this can only be relied on if the patient doesn't have capacity at the time.

Patients subject to a Treatment Authority, Forensic Order or Treatment Support Order

A doctor must apply to the Tribunal to perform ECT for patients subject to a Treatment Authority, Forensic Order or Treatment Support Order (including if the adult patient has given their informed consent).

This allows for the assessment of the patient's capacity to give informed consent to be confirmed by the Tribunal in recognition of the potential vulnerabilities

that they may have in relation to providing consent for ECT.

What information is a person given about the regulated treatment?

Before a person gives informed consent, the doctor proposing to perform the regulated treatment must explain all the following, in a way that the person can understand:

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

Performing ECT for minors

A minor can receive ECT only if approved by the Tribunal.

The Tribunal must consider the views of the minor's parents and the views, wishes and preferences of the minor when deciding whether to grant approval.

The Tribunal must appoint a lawyer to represent the minor, at no cost, and must ensure the membership of the Tribunal includes at least one psychiatrist with expertise in child and adolescent psychiatry.

Tribunal considerations for approving ECT applications

The Tribunal must have regard to various considerations before approving an application to perform ECT (depending on the patient's circumstances)–

If the person is an adult and unable to give informed consent (as a voluntary or involuntary patient), all the following apply:

- performing ECT has clinical merit and is appropriate in the circumstances
- evidence supports the effectiveness of ECT for the adult's particular mental illness
- if ECT has previously been performed on the adult – of the effectiveness of ECT for the adult.

If the person is an adult and gave informed consent as an involuntary patient, all the following apply:

- the doctor applying for ECT has given the adult the explanation required under the Act
- the adult has given informed consent to ECT.

If the person is a minor, that all the following apply:

- performing ECT has clinical merit and is appropriate in the circumstances
- evidence supports the effectiveness of ECT for the minor's particular mental illness and persons of the minor's age
- if ECT has previously been performed on the minor – of the effectiveness of ECT for the minor
- performing ECT on the minor is in the minor's best interests.

ECT in emergency circumstances

ECT may be performed on the following patients in emergency circumstances:

- an involuntary patient subject to a treatment authority, forensic order or treatment support order, or
- a person who is absent without permission from another State and is detained in an authorised mental health service.

A doctor may perform ECT on one of these patients in an authorised mental health service if:

- the doctor and the senior medical administrator of the service have certified in writing that performing ECT is necessary to save the patient's life or prevent the patient from suffering irreparable harm, and
- an application is made to the Tribunal to perform ECT on the adult.

The application to the Tribunal may be made before or when the certification is made.

Non-ablative neurosurgical procedures for other illnesses

The Act states that certain illnesses are not a mental illness, to make clear it is not an offence under the Act to perform non-ablative neurosurgical procedures, such as a deep brain stimulation procedure, for these illnesses:

- chronic tic disorder
- dystonia
- epilepsy
- Gilles de la Tourette syndrome
- Parkinson's disease or tremor.

More information:

Mental Health Act 2016

www.health.qld.gov.au/mental-health-act

Contact your local mental health service

1300 MH CALL (1300 642255)

www.qld.gov.au/health/mental-health/help-lines/services

Resources:

Guideline: [A Guide to ECT for Consumers and Carers](#)

Factsheet: [Information about ECT – A fact sheet for you and your family](#)

Factsheet: [Mental Health Review Tribunal](#)

Factsheet: [Treatment and care of minors](#)