

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.

What is electroconvulsive therapy?

Electroconvulsive therapy 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.

Electroconvulsive therapy 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.

What are 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 are unable to 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.

When can regulated treatments be performed?

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

Electroconvulsive therapy can only be undertaken:

- where the patient is an adult - with the patient's informed consent
- where the patient is an adult who cannot give informed consent - with the approval of the Mental Health Review 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 person and the approval of the Mental Health Review Tribunal.

What is informed consent?

To give informed consent to a regulated treatment, a person must have the capacity to consent to the treatment and must give consent freely and voluntarily. The consent must be in writing and signed by the person.

A person can give informed consent in an advance health directive.

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 of 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.

Can a minor receive electroconvulsive therapy?

A minor can receive electroconvulsive therapy only if it is approved by the Mental Health Review 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.

What does the Tribunal have to consider in approving electroconvulsive therapy?

The Tribunal may give approval only if it is satisfied that:

- performing the therapy is in the person's best interests
- evidence supports the effectiveness of the therapy for the person's particular mental illness
- if the therapy has previously been performed on the person, the therapy is effective for the person, and
- evidence supports the effectiveness of the therapy for persons of the minor's age.

Can electroconvulsive therapy be used in an emergency?

Electroconvulsive therapy 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 electroconvulsive therapy 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 the therapy is necessary to save the patient's life or prevent the patient from suffering irreparable harm, and
- an application is made to the Mental Health Review Tribunal to perform electroconvulsive therapy on the person.

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

What about 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.

The illnesses are chronic tic disorder, dystonia, epilepsy, Gilles de la Tourette syndrome, Parkinson's disease or tremor.