

Chief Psychiatrist Practice Guidelines

Examinations and Assessments

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Overview

- These Practice Guidelines:
 - set out procedures for authorised mental health services (AMHS) regarding examinations, **Recommendations for Assessment** and involuntary assessments under the *Mental Health Act 2016* (MHA 2016)
 - are to be read in conjunction with the relevant provisions of the MHA 2016 (Chapter 3) and the *Chief Psychiatrist Policy: Treatment Criteria and Assessment of Capacity* and the *Chief Psychiatrist Policy: Advance Health Directives and 'Less Restrictive Way' of Treatment*, and
 - are mandatory for all (AMHS) staff exercising a power or function under the MHA 2016.

Key information

- A doctor or authorised mental health practitioner may examine a person to decide if a **Recommendation for Assessment** should be made for the person.
- Strict criteria and requirements apply to making a **Recommendation for Assessment** and undertaking an involuntary assessment.
- An examination by a doctor or authorised mental health practitioner (i.e. to determine if involuntary assessment is required) may be undertaken in any way that is clinically appropriate, including:
 - if the person asks for or consents to the examination, or
 - the examination is authorised under another legislative process e.g. under an Emergency Examination Authority or an Examination Authority
- An involuntary assessment under a **Recommendation for Assessment** can occur only if the doctor or authorised mental health practitioner is satisfied-
 - the treatment criteria **may** apply to the person; and
 - there **appears** to be no less restrictive way for the person to received treatment and care for the persons mental illness.

Definitions

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 (for a minor), an attorney appointed under an Advance Health Directive (AHD) or Enduring Power of Attorney (EPOA), a guardian, or a statutory health attorney. (Additional definitions/explanation of terms is provided in Attachment 1 (Table – Additional definitions – alternate consent).

Guidelines

1 Recommendations for assessment

1.1 Examinations for Recommendation for Assessment

- A doctor or authorised mental health practitioner may examine a person to decide if a recommendation for assessment should be made for the person.
- A person may be examined by a doctor or authorised mental health practitioner at any location that is clinically appropriate, including in an AMHS, a public sector health service facility or a person's home.
- An examination may be undertaken by audio-visual link if the doctor or authorised mental health practitioner examining the person believes it is clinically appropriate.

1.2 Making a Recommendation for Assessment

- A **Recommendation for Assessment** can only be made if the doctor or authorised mental health practitioner has examined the person within the last seven days.
- The doctor or authorised mental health practitioner can only make the **Recommendation for Assessment** if satisfied that:
 - the treatment criteria **may** apply to the person **and**,
 - there **appears** to be no less restrictive way for the person to receive treatment and care for the person's mental illness.
- The flowchart at Attachment 2 (**Flowchart – Determining if a Recommendation for Assessment can be made**) sets out the decision-making process for making a **Recommendation for Assessment**.

1.2.1 Treatment criteria

- The treatment criteria means **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.
- The doctor or authorised mental health practitioner must be satisfied that the treatment criteria **may** apply to the person. While a definitive conclusion is not required, the doctor or health practitioner must be satisfied that there is sufficient evidence to support their view on each criterion.

Determination of mental illness

- **Mental illness** is a condition characterised by clinically significant disturbance of thought, mood, perception or memory. The Act sets out a range of matters that do not indicate a person has a mental illness such as holding particular religious, cultural, philosophical or political beliefs or having a particular sexual orientation or preference. A decision that a person has mental illness must be made in accordance with internationally accepted medical standards.
- The examination by the doctor or authorised mental health practitioner will, as far as is practicable in the circumstances, include a mental state examination and comprehensive information gathering (i.e. presenting problem, current functioning, medical, family, psychiatric and developmental history, forensic and legal history, and substance use) including collateral information obtained from existing records, other health practitioners and the person's family and carers.

Capacity to consent to be treated¹

- A person is presumed to have capacity to make decisions about the person's treatment and care and other matters under the MHA 2016.
- A person has **capacity to consent** to be treated for a mental illness if the person is:
 - capable of understanding, in general terms:
 - that he/she has a mental illness, or symptoms of an illness that affects his/her mental health and wellbeing
 - the nature and purpose of the treatment for the illness
 - the benefits and risks of the treatment, and alternatives to the treatment, and
 - the consequences of not receiving treatment, and
 - capable of making a decision about the treatment and communicating the decision in some way.
- 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.
- A person's lack of capacity to consent to treatment does not need to result solely from a mental illness. For example, a doctor assessing a person with dual disability (mental illness and intellectual disability) or a minor who does not have the maturity and understanding to make decisions, should consider these coexisting factors in relation to determining capacity to consent to treatment.
- The *Chief Psychiatrist's Policy on Treatment Criteria and Assessment of Capacity* further describes requirements related to capacity.

¹ The *Queensland Health Guide to Informed Decision-making in Healthcare* provides useful information about decision-making and consent for adults who lack capacity as well as children and young people.

Assessment of risk

- The risk of harm to the person or others must be imminent and linked to the person's mental illness. Risk of harm is not necessarily limited to risk of physical injury or deterioration in physical health and may include psychological and emotional harm, as well as adverse financial or social impacts, particularly where these are of a significant nature.
- 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.

1.2.2 Less restrictive way

- The 'less restrictive way' of receiving treatment and care refers to alternatives to being treated under a treatment authority.
- A **Recommendation for Assessment** may only be made if there appears to be no less restrictive way for the patient to receive treatment and care.
- In order to meet this requirement, the doctor or AMHP needs to consider if, after an examination of the person, it is likely that the person would not be able to receive treatment or care under one of the following alternative ways:
 - if the person is a minor - with the consent of a parent
 - under an AHD - with consent provided in directions in the AHD 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 EPOA, or
 - with the consent of a statutory health attorney.
- The doctor or authorised mental health practitioner must consider the options in the order listed above.
- The doctor or authorised mental health practitioner need only be satisfied that there **appears** to be no less restrictive way. This recognises the clinical circumstances in which an examination by a doctor or authorised mental health practitioner may occur (i.e. obtaining definitive information will not be practicable in many circumstances) and that more a comprehensive examination of less restrictive options will be given in the involuntary assessment process.
- The doctor or health practitioner's decision will take account of information that is immediately available. Where practicable, this includes, for example:
 - checking the 'External Contacts' and 'AHD/Sub Dec Maker' tabs in CIMHA
 - asking the person, and any support person/s with the person, whether the person has an AHD or an appointed attorney or guardian for health care decisions.
- The doctor or health practitioner's primary consideration is to ensure the person's timely examination. If it is not practicable in the clinical circumstances to confirm

available information or to contact an identified alternate decision maker, this should be recorded on the **Recommendation for Assessment** form.

1.3 Information to be provided

- If the doctor or health practitioner decides to make a **Recommendation for Assessment**, the doctor or authorised mental health practitioner must tell the person and their support person/s of the decision and the effect of the **Recommendation**. Informing of the decision includes an explanation of the doctor or health practitioner's view in relation to the treatment criteria. For the person, the explanation will take account of clinical considerations and minimising any potential adverse impact on the person's health and wellbeing.
- In this context, support person/s means a nominated support person or, if the person does not have a nominated support person, a family member, carer or other support person.
- A copy of the **Recommendation for Assessment** form may be requested by the person, their nominated support person/s, guardian or attorney under an AHD or EPOA. A copy of the **Recommendation for Assessment** form must be provided on request. However, a copy is not required to be provided to the person if the doctor or authorised mental health practitioner believes that this may adversely affect the person's health and wellbeing.

1.4 Recording requirements

- The **Recommendation for Assessment** (if made) must be completed electronically in CIMHA or, if this is not practicable, completed in hard copy and uploaded to CIMHA.
- In addition, a record of the doctor or authorised mental health practitioner's examination must be documented in, or uploaded to, CIMHA clinical notes. The documentation is to include:
 - a record of the examination, including information obtained from the person and other sources, and the details of the mental state examination
 - the evidence relating to mental illness, capacity to consent, and risks associated with harm or serious deterioration
 - if the person lacked capacity to consent and the doctor or health practitioner identified that the person had an AHD or alternate decision maker, the actions taken and the outcome of those actions, or the reasons why action was not taken
 - if the doctor or health practitioner determined the assessment could be conducted on the basis of consent given in an AHD or by an alternate decision maker, a clear statement of the consent provided i.e. including a record of consent for detention where this is expressly stated in the AHD or explicitly provided by the alternate decision maker

- the information provided to the person, and where relevant, their support person/s, or the reasons for not providing the information to the person.
- If the doctor or health practitioner identifies an AHD, EPOA or QCAT 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*).

1.5 Detention for the purpose of making a Recommendation for Assessment

- A doctor or authorised mental health practitioner may detain a person for a period of not more than 1 hour for the purpose of making a **Recommendation for Assessment** if:
 - the person is at an AMHS or public sector health facility and has been examined on a voluntary basis (e.g. the person is not subject to detention under an Emergency Examination Authority or Examination Authority at the time)
 - having examined the person, the doctor or health practitioner decides to make a **Recommendation for Assessment**, and
 - there is a risk that the person will leave the service or facility before the **Recommendation for Assessment** is made.
- Before detaining the person, the doctor or health practitioner must make reasonable efforts to:
 - if relevant, identify him/herself to the person (i.e. the doctor or health practitioner would ordinarily have already identified him/herself to the person in the context of the examination however, in urgent circumstances, a doctor or health practitioner may determine that a **Recommendation for Assessment** should be made on the basis of observations and available information)
 - tell the person a **Recommendation for Assessment** will be made and the nature and effect of the document
 - give the person an opportunity to remain while the **Recommendation for Assessment** is made.
- If the person is to be detained for the purpose of making a **Recommendation for Assessment**, the doctor or health practitioner must make reasonable efforts to tell the person that they are detained for not more than one hour.
- The reasons for, and duration of, the detention must be documented on the **Recommendation for Assessment** form.

1.6 Revoking a Recommendation for Assessment

- The doctor or authorised mental health practitioner who makes a **Recommendation for Assessment** may revoke the recommendation at any time before the start of the assessment if the doctor or health practitioner is no longer satisfied:
 - the treatment criteria may apply to the person, or

- there appears to be no less restrictive way for the person to receive treatment and care for the mental illness.
- The doctor or authorised mental health practitioner must complete a **Revocation of Recommendation for Assessment** form stating the reasons for the revocation. The **Revocation of Recommendation for Assessment** is to be completed electronically or, if this is not practicable, completed in hard copy and uploaded to CIMHA.

2 Assessment under a Recommendation for Assessment

2.1 General requirements for assessment by an authorised doctor

- The person's assessment under a **Recommendation for Assessment** must be undertaken within 7 days of the making of the **Recommendation for Assessment**.
- The assessment, undertaken by an authorised doctor, is to determine if a Treatment Authority should be made; in particular, the authorised doctor must determine if:
 - the treatment criteria apply to the person, and
 - there is a less restrictive way for the person to receive treatment for the mental illness.
- The assessment cannot be undertaken by the doctor who made the **Recommendation for Assessment**, unless the doctor is a doctor for an AMHS (rural and remote) and is the only authorised doctor reasonably available to make the assessment.
- The assessment may occur by audio-visual technology if it is considered clinically appropriate in the circumstances.
- The authorised doctor making the assessment must discuss the assessment with the person and their support person/s (i.e. nominated support person or, if the person does not have a nominated support person, a family member, carer or other support person). This includes, for example, explaining the reasons for the assessment and the outcomes of the assessment.
- After undertaking an assessment, a Treatment Authority can only be made for a person if:
 - the treatment criteria apply to the person, and
 - there is no less restrictive way for the person to receive treatment for the mental illness.
- Additional information about requirements for making a Treatment Authority is provided in the *Chief Psychiatrist Practice Guidelines - Treatment Authorities*.

2.2 Location of assessment and transport

- An assessment under a **Recommendation for Assessment** may be undertaken at:
 - an AMHS

- a public sector health service facility, or
- another location that the authorised doctor considers clinically appropriate.
- A person subject to a **Recommendation for Assessment** may be transported to an AMHS or public sector health facility for the purposes of the assessment. Refer to *Chief Psychiatrist Practice Guidelines - Transfers and Transport*.
- Assessments under a **Recommendation for Assessment** cannot be made in custodial settings. A person in custody who is subject to a **Recommendation for Assessment** may be transported by an authorised person to an inpatient unit of an AMHS for the assessment².

2.3 Detention for assessment at an AMHS or public sector service

- If the assessment is to be conducted at an AMHS or public sector health facility the person may be detained for the assessment.

2.3.1 Commencement of assessment period

- If the assessment is conducted at an AMHS or public sector health facility, the commencement of the assessment period must be recorded on the **Recommendation for Assessment** form.
- The start of the assessment period is recorded as follows:
 - If the person is at the AMHS or public sector health facility when the **Recommendation for Assessment** is made, the assessment period will commence on the making of the recommendation i.e. the date and time recorded on the *Declaration* at section 5 of the **Recommendation for Assessment** form.
 - If a person subject to a **Recommendation for Assessment** is transported to or presents at an AMHS or public sector health facility at a later time, the assessment period will commence when the person first attends the AMHS or public sector health facility for the assessment. A health service employee must record the date and time the person attends under the *Start of assessment period* at section 6 of the **Recommendation for Assessment** form.

2.3.2 Duration and extension of assessment period

- The person may be detained for the assessment for a period of up to twenty-four (24) hours.
- An authorised doctor making the assessment may extend the period of detention if the extension is necessary to complete the assessment. However, the period cannot be more than 72 hours from when the detention period commenced.
- The authorised doctor must record the extension of the assessment period on the **Recommendation for Assessment** form. If the recommendation was made

² See [Chief Psychiatrist Practice Guidelines Classified Patients](#)

electronically in CIMHA, the extension is to be completed electronically or, if this is not practicable, completed in hard copy and provided to the AMHS Administrator to be uploaded to MHA Forms.

2.4 Assessment at a place other than an AMHS or public sector health facility

- A person subject to a **Recommendation for Assessment** may be assessed at a location other than an AMHS or public sector health facility (e.g. the person's place of residence) if the authorised doctor considers it clinically appropriate.
- The person is **not** detained for the purposes of the assessment. The assessment period on the **Recommendation for Assessment** is **not** commenced in this instance.
- If attempts to undertake the assessment at an alternate location are unsuccessful, arrangements may be made for the person to be transported to, and detained at, an AMHS or public sector health facility (as provided above) within 7 days of the making of the **Recommendation for Assessment**.

2.5 Authorised doctor responsibilities if Treatment Authority not made

- If the authorised doctor who undertakes the assessment decides not to make a Treatment Authority, the authorised doctor must inform the person and their support person/s (i.e. nominated support person or, if the person does not have a nominated support person, a family member, carer or other support person) of:
 - the decision and the basis of the decision (i.e. the reasons the doctor determined that the treatment criteria did not apply or how treatment and care for the person's mental illness is proposed to be provided in a less restrictive way), and
 - the effect of the decision (i.e. that the person is no longer subject to the involuntary processes of the Act).
- The authorised doctor must make a record of the decision and the reasons for the decision on the **Recommendation for Assessment** form. If the recommendation was made electronically in CIMHA, the authorised decision and reasons are to be completed electronically on the **Recommendation for Assessment** form or, if this is not practicable, completed in hard copy and provided to the AMHS Administrator to be uploaded to MHA Forms.

2.6 Administrator responsibilities for transport after assessment

- The AMHS Administrator must, in specified circumstances, take reasonable steps to facilitate the person's transport following an examination or assessment (i.e. if detention is no longer required). This includes circumstances where the person was transported from a place in the community to an AMHS or public sector health service under:

- an Examination Authority
 - a **Recommendation for Assessment**, or
 - an Emergency Examination Authority if a **Recommendation for Assessment** is made.
- Reasonable steps for returning the person include, but are not limited to, providing the person with means to utilise public transport such as taxi, bus, train or ferry.
 - A person who attends an AMHS or public sector health service facility under an Examination Order made by a Magistrate should also be reasonably assisted to return to a reasonable place once they are no longer required to be at the AMHS or public sector health service facility.

3 Providing information about rights

- The Administrator of an AMHS must ensure appropriate arrangements are in place to provide persons admitted to an AMHS with an explanation of the *Statement of rights*. This includes persons admitted on the basis of a **Recommendation for Assessment** or consent (i.e. under an AHD or alternate decision maker). The arrangements must clearly identify who is responsible for providing the explanation, and ensure that the explanation is provided in a timely way.
- The explanation about rights must be provided to the person and their support person/s (i.e. nominated support person or, if the person does not have a nominated support person, a family member, carer or other support person). If requested by the person or their support person/s, a copy of the *Statement of rights* must be provided.
- If the explanation is provided by a clinician and the clinician considers that the person is unable to understand the explanation (e.g. as a consequence of their mental state), the clinician should ensure that the explanation is provided at a later time. The clinician may seek the assistance of an Independent Patient Rights Adviser to provide further explanation.
- The clinician must document their actions in the person's clinical record, including the persons to whom the explanation was provided and, if relevant, further actions taken to ensure to person's understanding of their rights.

Attachments

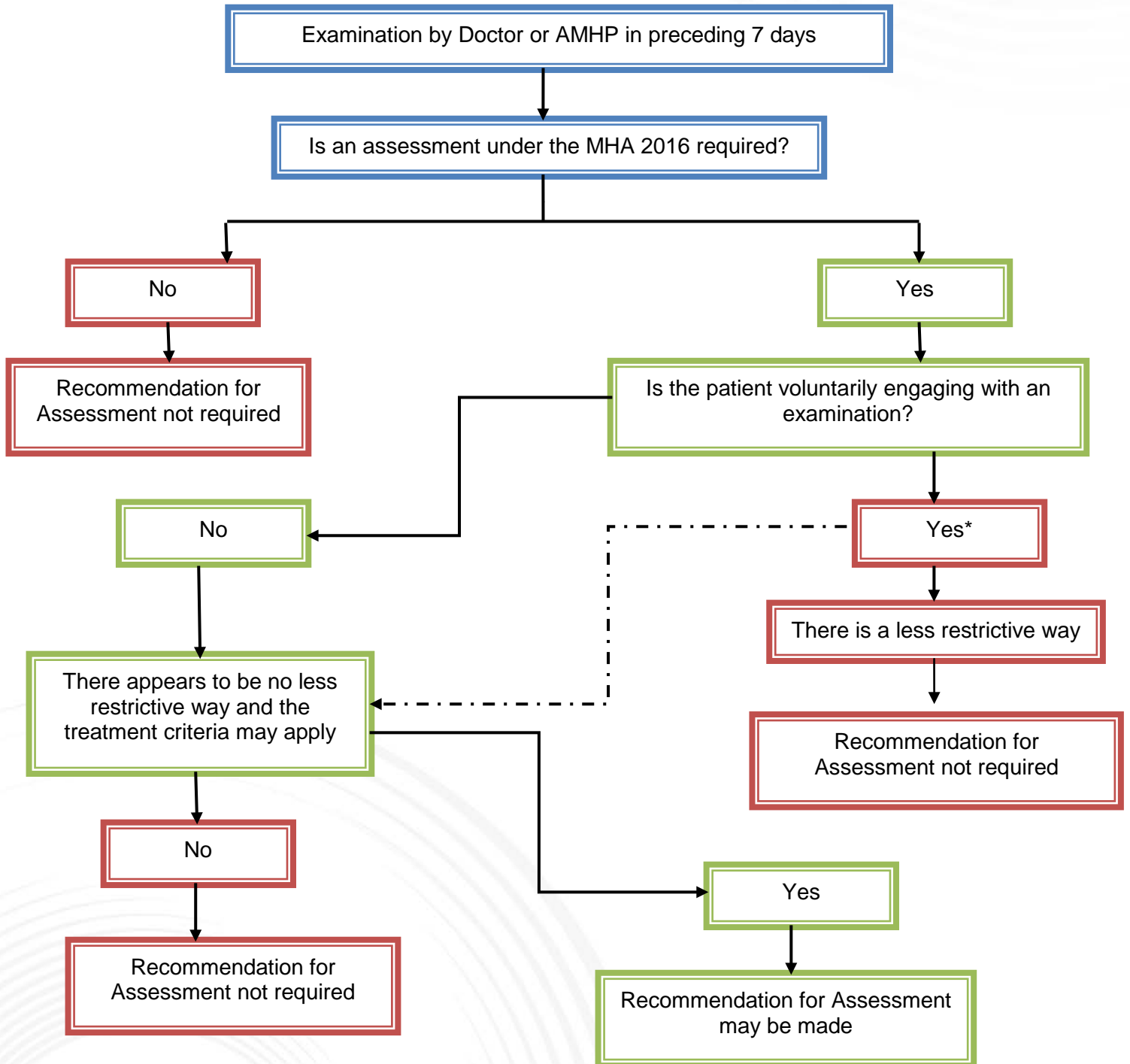
1. Table – Additional definitions - alternate consent
2. Flowchart – Determining if ***Recommendation for Assessment*** can be made

Attachment 1 Table – Additional definitions – alternate consent

Alternate consent options (to be considered in order listed below)	Definitions
Parent – for a minor	<p><i>Minor</i> – a person under the age of 18 years.</p> <p><i>Parent</i> – includes:</p> <ul style="list-style-type: none"> • a guardian of the minor (under the <i>Child Protection Act 1999</i>) • an individual who exercises parental responsibility for the minor, other than on a temporary basis (e.g. child minding) • for an Aboriginal minor – an individual who, under Aboriginal tradition, is regarded as a parent of the minor, and • for a Torres Strait Islander minor – an individual who, under Island custom, is regarded as a parent of the minor.
Advance Health Directive (AHD)	<p><i>AHD</i> – a document stating the person’s consent to 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.</p> <p><i>Attorney under an AHD</i> – 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.</p>
Guardian	<p><i>Guardian</i> - a person appointed by the Queensland Civil and Administrative Tribunal (QCAT) 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.</p>
Attorney under an Enduring Power of Attorney (EPOA)	<p><i>Attorney under an EPOA</i> - 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.</p>
Statutory health attorney	<p><i>Statutory health attorney</i> – 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"> • a spouse of the person if the relationship is close and continuing • an adult (i.e. 18 years or more) who has care of the person and is not a paid carer for the person • an adult who is a close friend or relation of the person and is not a paid carer for the person. <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>

See *Guide to Advance Health Directives, Enduring Powers of Attorney and Guardians* for further information.

Attachment 2 Flowchart – Determining if a *Recommendation for Assessment* can be made



**After a voluntary examination, the doctor or AMHP may decide there appears to be no less restrictive way and that the treatment criteria may apply*

Glossary of Terms

AHD	Advanced Health Directive
AMHS	Authorised Mental Health Service
CIMHA	Consumer Integrated Mental Health Application
EPOA	Enduring Power of Attorney
MHA 2016	<i>Mental Health Act 2016</i>
QCAT	Queensland Civil and Administrative Tribunal

Referenced Forms, Clinical Notes and Templates

Recommendation for Assessment form
Revocation of Recommendation for Assessment form

Referenced Documents & Sources

Chief Psychiatrist Policy: Advance Health Directives and 'Less Restrictive Way' of Treatment
Chief Psychiatrist Policy: Treatment Criteria and Assessment of Capacity
Chief Psychiatrist Practice Guidelines - Transfers and Transport
Chief Psychiatrist Practice Guidelines - Treatment Authorities
Queensland Health Guide to Informed Decision-making in Healthcare
CIMHA Clinician Handbook Vol 6: MHA 2016
Mental Health Act 2016

Document Status Summary	
Date of Chief Psychiatrist approval:	14 December 2017
Date of effect:	19 December 2017
Supersedes version that took effect on:	5 March 2017
To be reviewed by:	5 March 2020