



Queensland
Government

Queensland Health

MEMORANDUM

To: District Chief Executive Officers
Administrators, Authorised Mental Health Services

Copies to: Administrator Delegates, Authorised Mental Health Services
Cheryl Furner, A/Executive Director, Mental Health Directorate

From: Dr William Kingswell **Contact No:** 1800 989 451
Delegate Director of Mental Health **Fax No:** (07) 3328 9619

Subject: Administration of medication whilst undertaking a Mental Health Assessment

File Ref:

I am writing to clarify the interpretation and application of the *Mental Health Act 2000* (MHA) and *Guardianship and Administration Act 2000* (GAA), when a person requires urgent health care, including the decision to administer medication during the assessment phase of a mental disorder.

When a patient requires urgent health care during the assessment phase, the MHA states that medication can only be administered in two situations –

1. When being transported to an authorised mental health service (AMHS) on assessment documents (s26 MHA), and
2. If the patient is being moved within an AMHS during the assessment period (s164 MHA).

It should be noted that a public hospital, including the Emergency Department, is an AMHS during the involuntary assessment phase, if there is no AMHS readily available for a person's examination (s15 MHA).

Issues

It is not possible to rely upon the provisions in the MHA to provide urgent health care when:

1. clinicians are unsure of their legal authority to administer medication before the mental health assessment is commenced and/or completed.
2. a mental health assessment is inappropriate and/or impractical at the time.

In these instances, clinicians may rely on s63 of the GAA.

If a person requires urgent health care for a mental health disorder, but is deemed to have impaired capacity for consenting to treatment:

1. Health care providers must make reasonable inquiries to establish whether consent is available from an established substitute decision maker.
2. The clinician should consider having the patient assessed for an involuntary treatment order (ITO) under the MHA.
3. If an ITO cannot be completed or made, then the provisions of the GAA may be applied until such time as an MHA assessment is completed.

Where decisions are being made pursuant to the GAA by a substitute decision maker or in urgent circumstances, it must be kept in mind that the principles of the GAA apply. These include acting in the least restrictive way, only exercising a power that is necessary and appropriate to maintain or promote the adult's health or wellbeing, and in all the circumstances acting in the adult's best interests.

Urgent health care may include the administration of medication (sedation) for a patient's own safety and/or the safety of others, where patients

1. Are known to have a mental illness, or it is reasonably believed the person has a mental illness;
2. Consent cannot be obtained for treatment;
3. The clinician has assessed the risk and determined that this would be the most appropriate medical intervention.

For the purposes of s63 of the GAA 'urgent health care' may include the administration of medication (sedation) to a patient.

Conclusion

The administration of medication in these circumstances must be determined on a case-by-case basis, having regard to the relevant information at the time of presentation and the application of the appropriate legislation. If it is deemed that urgent health care is required, including administration of medication, the GAA may apply. Once the patient is able to be assessed, and it is established that the patient is suffering from a mental illness, then s13 and s14 of the MHA may apply and an ITO confirmed. Further treatment would be pursuant to the provisions of the MHA.

To safeguard the actions taken to treat a person in these exceptional circumstances, clinicians must document the process in the patient's clinical records, the factors enabling the health care treatment to be carried out, including the decision to administer medication and the outcome.

If you have any enquiries regarding this matter, please contact Penny Dale, A/Principal Policy Officer, Policy and Legislative Development on telephone (07) 3328 9597.



Dr William Kingswell
Delegate Director of Mental Health

17/12/05