THE MENTAL HEALTH ACT:
YOUR RIGHTS
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It is important to acknowledge this publication as published by the Office of the Commissioner for Mental Health (Malta).

Photos by: https://www.pexels.com

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MENTAL HEALTH ACT 2012

The Mental Health Act offers a person-focused approach. It is built around 19 identified rights of users and their responsible carers. The Law establishes the Commissioner for the Promotion of Rights of Persons with Mental Disorders.
The Mental Health Act provides a list of 19 rights covering all that one should expect when using the Mental Health services. All the rights contemplated may be summed up under the principle of full dignity and respect towards every person, irrespective of the severity of their mental condition. At the same time patients are encouraged to participate actively in their care. It is both their right and their responsibility to participate in the drawing up and progress of their own care plan.

Right to Dignity and exercise of Civil rights

As a user of mental health services, you have the right to exercise all civil, political, economic, social, religious, educational and cultural rights without any discrimination on grounds of physical disability, age, gender, sexual orientation, race, colour, language, religion or national or ethnic or social origin. The law gives you the right of full respect for your dignity and protection from cruel, inhuman and degrading treatment. You also have the right for a safe and hygienic environment, and privacy. The right to privacy may only be limited if there is a serious risk to your health or the safety of others.

Right to receive High Quality Care

The Mental Health Act ensures your right to receive treatment of the same quality and standard as other individuals. You have the right to receive treatment which addresses your needs holistically through a multidisciplinary care plan approach in the least restrictive environment and manner, and primarily in the community. You also have the right to receive aftercare and rehabilitation in the community whenever possible, so as to facilitate social inclusion.
The Right to Information

You have the right to be adequately informed about your disorder and the multidisciplinary services available to cater for your needs and the treatment options available. You also have the right to actively participate in the formulation of your own multidisciplinary treatment plan. You have every right to discuss, question, express your opinion, and receive adequate answers for any questions you may have. It is however important that you follow the agreed care plan. For any desired change in any aspect of the plan, you should consult with your caring team to avoid any possible negative repercussions that such a decision may have on your mental health or condition. You are to be informed of your rights and how you can exercise them in a form and language which is easy to understand within 24 hours of admission to a licensed facility or on receiving a Community Treatment Order. This information, together with information about available services and support should also be provided to your responsible carer.
The Right to appoint a Responsible Carer of Your Choice

You have the right to appoint a person of your own choice as your responsible carer whenever possible. It is highly recommended that you choose a person with whom you have a close personal relationship, and who has your best interests at heart. You should appoint this person in writing. The responsible carer should also preferably confirm acceptance of this role in writing.

The Right to an Informed Consent

One of your fundamental rights as a patient is that of free and informed consent for care and treatment. It is very important that you understand what consent is being given, and can freely ask the pertinent questions where clarifications are necessary. Such consent is recorded in your clinical records. This is without prejudice to your right to withdraw consent. As a voluntary patient, you have the right to withdraw or refuse consent, so long as you are fully aware of the possible negative effects that such withdrawal, or refusal, may have on your overall condition. If you are a voluntary patient and refuse treatment or request to be discharged but in the opinion of the caring team you still require inpatient treatment, your legal status may be changed to involuntary if your condition meets the criteria for involuntary admission stipulated in the Mental Health Act.
The Right to Confidentiality and Access to clinical records

You have the right to confidentiality of all information about yourself, your illness and treatment in whatever form stored. This information shall not be revealed to third parties without your consent unless ordered by court or obliged by law to do so, or if it is in the best interest of public safety, or in an emergency where providing such information may be life-saving. You can be given access to your clinical records unless, in the opinion of the responsible specialist this may be harmful to your own health, or it may put the safety of others at risk. You or your responsible carer may contest any decision to withhold information from you, with the Commissioner for Mental Health.

The Right to Freedom of Communication and hospital visitors

When receiving treatment in a licensed facility, you can freely communicate with the outside world and receive visitors in private within all reasonable times, unless such freedom of communication and/or visiting is considered detrimental for your health or it impinges on the rights and freedoms of other people. In such circumstances, the specialist responsible for your care can submit an application to the Commissioner for Mental Health to approve the restriction of your freedom of communication and/or visiting.

In order for you to fully benefit from all the rights provided to you under the Mental Health Act, it is important that you observe certain responsibilities such as co-operation with your care plan, open communication with, and full respect for the multi-disciplinary care team, other healthcare professionals, your responsible carer, and fellow patients.
is the officer appointed under the Mental Health Act to protect and promote the rights of persons with mental disorders and their responsible carers. The Commissioner reviews, decides on and extends orders as required and established by law, in consultation with the healthcare professionals. This is intended to ensure that patients are not detained in hospitals involuntarily for longer periods than strictly required. The maximum periods for involuntary care are also established by law.

AS A PATIENT IN A MENTAL HEALTH LICENSED FACILITY YOU SHOULD KNOW YOUR LEGAL STATUS TOGETHER WITH YOUR RIGHTS AND DUTIES RELATED THERETO. A PATIENT MAY RECEIVE CARE IN A HOSPITAL EITHER ON VOLUNTARY OR IN VOLUNTARY BASIS
Voluntary Care

The patient seeks, or consents to, admission into a hospital and to receive the necessary care and treatment. This consent to necessary treatment in writing, is given after receiving adequate and essential explanation and information regarding one’s condition and the care plan proposed in a manner that can be easily understood. The care plan may include medicines or other therapies as required. It may also include certain patient obligations, such as attending therapy sessions, co-operating with the multidisciplinary team and a commitment to involve oneself and one’s responsible carer in the care plan. The patient is entitled to any further clarification, including information regarding hospital protocols which one is bound to follow as required.

A patient under voluntary care has the right to refuse any form of treatment and also to request to be discharged. In order to be able to discharge himself, a patient needs to inform the nursing officer in charge. In the case of voluntary admission the nurse responsible for your care may prevent self discharge for up to 4 hours. During this time a doctor is called to review you and if it results that the criteria for involuntary detention apply you may be detained as an involuntary patient.

Involuntary Care

Every involuntary admission commences with a period of observation not exceeding 10 days.
Conditions for involuntary admission or detention

You may only be admitted or kept in hospital against your will if a specialist in psychiatry certifies that

1. you have a severe mental disorder, and

2. due to the mental disorder, you are at serious risk of physical self harm or harm to others, and

3. if you are not admitted or kept in hospital your condition will likely get much worse or you may not be able to get the treatment that you need

When it results from a medical examination that all the above conditions concur, an application for an involuntary admission for observation is made.
PROCEDURE FOR A INVOLUNTARY ADMISSION TO OR DETENTION IN HOSPITAL

Medical Assessment

The medical practitioner after assessing you, shall fill in the necessary application. A specialist in Mental Health should be called to assess you and if there is agreement with the initial assessment, the same application will also be signed by the specialist. The responsible carer shall sign also the same application if in agreement; but if the responsible carer cannot be found, or refuses to sign the application, a mental welfare officer is called in to assess you and all the circumstances and sign the application, in order for you to be admitted in hospital (mental health licensed facility) for involuntary observation.

Emergency Admission

In an emergency, a single medical assessment together with the consent and signature of the responsible carer or the mental welfare officer is sufficient to admit you involuntarily for observation. However, within 24 hours of such admission, a second medical assessment by a specialist in mental health is required and if there is agreement with the initial assessment, the same application will also be signed by the specialist. Thus you can be detained in hospital on an involuntary basis.
During the 10 day involuntary period of observation in a mental health licensed facility, the medical team responsible for you shall prepare a care plan. If the responsible specialist is of the opinion that you require further care in the facility and the criteria have not changed, but you refuse, then the specialist together with the caring team, shall submit an application for involuntary treatment to the Commissioner for Mental Health. As required by law, this application shall be accompanied by a Multidisciplinary care plan.

**MULTIDISCIPLINARY CARE PLAN: THE LAW ESTABLISHES THAT THE MULTIDISCIPLINARY CARE PLAN IS TO CLEARLY OUTLINE THE PATIENT’S NEEDS, HOW AND BY WHOM THESE WILL BE ADDRESSED, SPECIFYING EXPECTED OUTCOMES AND TIMEFRAMES. EACH PROFESSIONAL WITHIN THE MULTIDISCIPLINARY TEAM IS CONSIDERED RESPONSIBLE FOR ASSESSMENT AND CARE WITHIN THEIR PROFESSIONAL SCOPE OF PRACTICE.**

After evaluating the application with the advice and assistance of an independent specialist if necessary, the Commissioner will issue a decision regarding the submitted application. A copy of this decision is sent to the patient, to the responsible carer, the specialist and Mental Health Services Management. The period of involuntary treatment shall be of not more than 10 weeks, but if necessary, this period may be extended by a further period of 5 weeks. In this case a revised care plan together with an application by the responsible specialist shall be sent
to the Commissioner for Mental Health who, after evaluating them, shall issue a decision on the application received. In those instances where the period of detention required to treat a patient is longer, the Responsible Specialist needs to submit another application together with an updated multidisciplinary care plan.

The maximum period for a Detention Order is six months. An assessment by an independent Specialist on behalf of the Commissioner is required for all applications for a Detention Order, and every decision is taken on an individual basis. A detention order may be renewed if further involuntary in-patient care is needed.

A period of Involuntary Care may be transformed into Voluntary Care if the patient accepts and consents to treatment.
AN ORDER FOR INVOLUNTARY TREATMENT IN A MENTAL HEALTH LICENSED FACILITY FOR MINORS

patients under the age of 18 years.

The same criteria for involuntary admission and procedures which apply for adults apply also for minors. Minors may be detained for a 10 day period of observation in a mental health licensed facility under the care of the medical team responsible for the patient. A care plan is to be prepared for you during this time. If the responsible specialist is of the opinion that you require further involuntary in-patient care but you/your parents/guardians refuse, then the specialist together with the caring team, shall submit an application for involuntary treatment to the Commissioner for Mental Health. As required by law, this application shall be accompanied by a Multidisciplinary
care plan. After evaluating the application with the advice and assistance of an independent specialist if necessary, the Commissioner will issue a decision regarding the submitted application. A copy of this decision is sent to you/parent/guardian, the responsible carer, the specialist and Mental Health Services Management. The period of involuntary treatment shall be of not more than 4 weeks, but if necessary, this period may be extended by a further period of 4 weeks to a maximum of 12 weeks in total including the period of involuntary observation order. In the case of an extension, a revised care plan together with an application by the responsible specialist shall be sent to the Commissioner for Mental Health who, after evaluating them, shall issue a decision on the application received. In those instances where the period of detention required is longer, the Responsible Specialist needs to submit an application for detention together with an updated multidisciplinary care plan.

The maximum period for a Detention Order is three months. An assessment by an independent Specialist on behalf of the Commissioner is required for all applications for a Detention Order, and every decision is taken on an individual basis. A detention order may be renewed if further involuntary in-patient care is needed.

MAXIMUM DURATION OF INVOLUNTARY CARE PERIODS IN MINORS IS MUCH SHORTER THAN THAT FOR ADULTS
An application for a Community Treatment Order may be made when it results during a medical assessment that you:

1. have a severe mental disorder which can be safely treated outside hospital under adequate supervision,
   and
2. have previously refused or failed to cooperate in taking treatment,
   and
3. are at serious risk of harm to self or to others if you do not take the treatment,

The Community Treatment Order is a form of supervised care which allows for treatment, care and management of a person with a mental health disorder to be provided in the community by healthcare professionals as nominated in the care plan.

A Key Healthcare Professional must be appointed for each case. Such professional will be responsible for the co-ordination of the care plan and also to explain to you your rights and responsibilities under the same care plan. This professional shall be the reference point for you and your responsible carer and shall ensure that you follow the care-plan as agreed.

A Community Treatment Order shall be issued for a maximum period of six (6) months that can be extended further if considered necessary. For each renewal, a medical re-assessment is necessary and a fresh application must be submitted together with an updated care plan.

The decision regarding a Community Treatment Order is issued by the Commissioner for Mental Health and a copy is sent to you, your responsible carer and caring team.
The Role Of The Family Doctor In Community Involuntary Care

One should highly encourage the identification and involvement of the personal Family Doctor in the community care plan, who can effectively communicate with the key healthcare professional, the specialist and the other members of the multidisciplinary team.
If you fail to abide by the care plan drawn up for a Community Treatment Order

Then you may be admitted into a hospital involuntarily for observation for a period of up to 10 days. If within this period your condition improves to such an extent that involuntary detention is no longer required, you may be discharged to the community to continue treatment under the Community Treatment Order. If the responsible specialist decides that you require further in-patient treatment beyond 10 days and you refuse voluntary care, the process to apply for involuntary care is initiated. In such instances the Community Treatment Order shall cease to have effect and instead the Involuntary Admission for Treatment order shall be applied. A copy of such a decision is sent to you, the responsible carer, the key health care professional and mental health services.
THE RIGHT TO APPOINT A RESPONSIBLE CARER

The responsible carer will help and support you to follow your care plan and act on your behalf whenever necessary. The responsible carer can act instead of you when you lack the mental capacity to do so. A responsible carer appointed under the Mental Health Act is only responsible for the care aspect and is not responsible for management of finance and property.

The responsible carer has the right to receive information regarding your care plan and should be actively involved in the drawing up and implementation of the care plan. He/she has the right to ask for clarifications of the care plan from the medical team. The responsible carer is there to encourage you to take the necessary medication as needed, to follow the advice of the team following you and to see that you do not miss out on appointments. The responsible carer can communicate with the caring team if he/she notices that you are not well.

If you do not appoint a responsible carer, the caring team shall identify one for you from amongst your nearest relatives or close friends. If the medical team is of the opinion that the responsible carer should be changed, the responsible specialist informs the Commissioner stating reasons. After evaluation the Commissioner may appoint another responsible carer. Where a responsible carer cannot be found, the Commissioner can be requested to appoint a responsible carer only in so far as the giving or withholding of consent to treatment is concerned.

In an emergency, the responsible carer can sign the application for involuntary admission for observation in your best interest and for your protection. These would be situations where the criteria for involuntary care apply and you refuse to be treated as necessary. You cannot be detained on an involuntary basis on the signature of the responsible carer alone. Admission and detention need to be certified by a medical team based on the criteria for involuntary admission. Should these cease to apply you can be discharged to the community or remain in hospital to receive care if you consent to this as a voluntary patient.
It is important to note that NO PERSON may be detained as an involuntary patient without a medical recommendation or if he/she fails to meet the 3 criteria required for such a detention.
PLACING A COMPLAINT
at the Customer Care Unit within Mental Health (Services) Malta

You and your responsible carer are encouraged to provide feedback to the caring team. Should you have queries or complaints the following procedure is recommended:

Approach a member of staff on the ward or at out-patients department or mental health clinic from where you are receiving care and voice your concern about your care or that of your beloved ones. Should your problem not be sorted out at this level you can submit your query to the Customer Care Unit within Mental Health Malta.

About the Customer Care Unit within Mental Health Malta

- The aim of the customer care unit is to provide patients/carers with an accessible, quality service in the most efficient, effective and timely manner possible.

- If you are unhappy with the quality of service or the manner in which the service was provided, the customer care unit is the place to submit your query and efforts are made to resolve your enquiry in the shortest time possible.

- You can make a complaint informally to the person in charge at the place where you are receiving care. However, if you still feel dissatisfied you can use the formal complaints procedure.

One can find the Customer Care in the administration block of Mount Carmel hospital, on the left side of the main entrance foyer. There are signs leading to the office.
You can make a complaint by:

- visiting the Customer Care Unit office where you can discuss your query; It is recommended that you make an appointment or phone beforehand.

- You can place your query (complaint/feedback) on the forms provided. These may be obtained from Customer Care Unit Office. These are also available on wards, units and premises offering Mental Health services.

- complaints may also be lodged through email address: customercare.mhs@gov.mt or by phoning on (00356) 2330 4444 or (00356) 2330 4445;

- complaints may be sent by post as follows:

  Customer Care Office, Mount Carmel Hospital, Mdina Road, Attard, ATD 9033

- or by posting the complaint form in the post-box outside the Customer Care Office and other boxes found in all wards and Mental Health Community services;

- All complaints are dealt with great confidentiality;

In the eventuality that you are not fully satisfied with the outcome of your request or if you feel that your rights as a patient/responsible carer have been breached, you may place a complaint to the Office of the Commissioner for Mental Health.

YOU CAN PLACE A COMMENT OR SUGGESTION FOR IMPROVEMENTS TO SERVICES. THIS WILL HELP IN WAYS TO IMPROVE THE QUALITY OF CARE PROVIDED WITHIN MENTAL HEALTH MALTA.

IF YOU HAVE PARTICULAR REQUIREMENTS REGARDING ACCESS TO THE MENTAL HEALTH SERVICES, INCLUDING LANGUAGE ISSUES THE UNIT WILL DO ITS BEST TO FACILITATE YOUR PROCESS WITH THE NECESSARY ARRANGEMENTS.
HOW TO CONTACT THE COMMISSIONER FOR MENTAL HEALTH

If you would like to speak to the Commissioner for Mental Health, contact the customer care officer by phone before coming to the office on Contact number (00356)2592 4304. Kindly note that all queries are dealt with initially by the Customer Care official who will refer the matter to the Commissioner as necessary.

If you would like to set up an appointment you can phone or send an email briefly explaining your concern or query or complaint or suggestion.

You may send an email on: mentalhealthcommissioner.health@gov.mt

Or by post – you can send a letter addressed to the Commissioner for Mental Health, Office of the Commissioner for Mental Health, St Luke’s Square, G’Mangia, PTA 1010.

All complaints are dealt with great confidentiality. It is recommended that you provide also a contact number where our official can communicate back with you. It is important to note that unsigned letters which do not clearly indicate sender will not be considered.

It is important to note that the Commissioner cannot decide upon clinical matters such as medication and treatment options.
1. "Mental health problems are rare, I’ll never be affected." 
Mental health problems are actually very common. 1 in 4 people will experience a mental health problem in any given year.

2. "Mental Health: it’s all in the head." 
Mental health problems are often caused by external difficulties such as life events like divorce or bereavement, or by wider socio-economic factors like poverty or homelessness. They can also cause great distress, and can affect every part of your life, including your physical health, your relationships and your work. There’s definitely more to it than just your head.

3. "Only weak people have mental health problems." 
Experiencing a mental health problem is NOT a sign of weakness and it is not something to be ashamed of. Mental health problems can often be human ways of coping with and making sense of complex life experiences such as grief or trauma.

4. "People with mental health problems are dangerous and violent." 
It’s the other way around. People with mental health problems are unfortunately more likely to be victims of violence or harm.

5. "Medication is the only solution!" 
While medication can help some people experiencing mental health problems, it should be seen as part of the solution rather than the sole solution. Progressive alternatives exist, and we should promote them.

6. "People with mental health problems cannot work." 
Meaningful work in a supportive environment can be a very important part of recovery. It is also very likely that we all work with someone experiencing a mental health problem, but we may not know about it because of the fear of stigma and discrimination.

7. "Young people and adolescents are going through turbulent times, nothing to worry about, it’s puberty!" 
Globally, 1 in 5 adolescents will experience some kind of mental health problem in any given year. Adolescence is a challenging transition period when mental health problems are most likely to develop.

8. "Physical and mental health are completely separate things." 
Physical and mental health are highly intertwined and should not be treated separately as they both impact on each other.

9. "People with mental health problems should stay in hospital." 
There are many progressive alternatives to traditional psychiatric hospitals which have proven to effectively help people with mental health problems, such as community service or peer support.

10. "People do not recover from mental health problems." 
With the right kind of help, people can and do recover from mental health problems. Recovery is not the eradication of the experiences or symptom. It means living with and managing these experiences, whilst having control over and input into your own life.

Each of us is part of the solution. Let’s end mental health stigma together.

eachofus.eu
mhe-sme.org