

# SANE

FACTSHEET

## INVOLUNTARY TREATMENT

### QUICK FACTS

In Australia, there are circumstances where you can be legally hospitalised for a mental illness without your consent. You can also be legally compelled to receive treatment — medication and/or therapy — without your consent.

### INVOLUNTARY HOSPITALISATION

During an episode of mental illness, you may become sick enough to need hospital treatment. If you know you need urgent help you can ask to be hospitalised, but there are also circumstances where you may be legally hospitalised without your consent.

This isn't rare: in 2014-15, just under a third of all mental health-related stays in Australian hospitals with specialised psychiatric care were involuntary. That's 48,857 hospital stays.

The laws covering involuntary hospitalisation vary from state to state, but generally, you can only be hospitalised involuntarily if you're judged to meet **all** of the following criteria:

- you have a mental illness
- you need treatment
- you can't make a decision about your own care

and **one or both** of these criteria:

- you are considered to be a danger to your own safety
- you are considered to be a danger to someone else's safety.

Once you reach hospital, one or sometimes two doctors will need to assess your mental health and agree that you need to be hospitalised without your consent.

The length of time you can be held, who can extend that time and who can review your case varies by state and territory.

### TREATMENT ORDERS

A Treatment Order (sometimes called an Involuntary Treatment Order, a Community Management Order, a Treatment Support Order or a Community Treatment Order) is a legal order making it mandatory for you to take medication and engage in therapy or other

treatments, whether you're in a mental health facility or living in the community.

The laws for Treatment Orders vary by state, but generally speaking, a mental health professional can apply for an order, which must then be approved by a legal authority such as a magistrate or tribunal.

There are strict requirements for the granting of a Treatment Order. They are usually only granted where there is a risk of severe decline in your health, or a risk to your or someone else's safety.

Treatment Orders are more common in Australia than in many parts of the world, and more common in some parts of Australia than others. For example, 99 out of every 100,000 Victorians was under a Treatment Order in 2010–11; in Tasmania it was 30 out of 100,000.

## **UNDERSTANDING YOUR STATE'S MENTAL HEALTH ACT**

The laws covering involuntary treatment for mental illness are the Mental Health Acts of each state and territory. There are plain-English guides on how the Act works where you live.

### **Plain-English guides to the Mental Health Act**

[ACT](#) • [NSW](#) • [NT](#) • [QLD](#) • [SA](#) • [TAS](#) • [VIC](#) • [WA](#)

## **LEGAL RIGHTS AND ADVOCACY**

Even when you're not making decisions for yourself, you still have legal rights. Each state and territory has legal aid and advocacy services to help you understand your rights in relation to your mental illness and treatment.

### **Mental health legal aid & advocacy services**

[ACT](#) • [NSW](#) • [NT](#) • [QLD](#) • [SA](#) • [TAS](#) • [VIC](#) • [WA](#)

*This SANE factsheet is currently being reviewed by industry professionals, carers and people with lived experience of BPD.*

## **References**

AIHW, [Specialised care characteristics](#), accessed 3 April 2017.

Light, E., Kerridge, I., Ryan, C., Robertson, M. (2012), [Community treatment orders in Australia: rates and patterns of use](#). *Australasian Psychiatry*. 20(6), 478-482.