

Mental Health Act, 2016 (Queensland)

Sections focused on Carers

This information sheet is designed to support health professionals navigate carer specific information from the Mental Health Act, 2016 (Queensland). [Click here to download the entire Mental Health Act, 2016 for Queensland.](#) Information included below are direct quotes from the Mental Health Act and include page numbers where you can find further information. The information was sourced via the Private Mental Health Consumer Carer Network (Australia) Limited.

What is a Carer?

“Carer means an individual who provides, in a non-contractual and unpaid capacity, ongoing care or assistance to another person who, because of disability, frailty, chronic illness or pain, requires assistance with everyday tasks” (p. 537).

Principles for persons with mental illness

“The following principles apply to the administration of this Act in relation to a person who has, or may have, a mental illness—

(c) Support persons - to the greatest extent practicable, family, carers and other support persons of a person who has a mental illness are to be involved in decisions about the person’s treatment and care, subject to the person’s right to privacy” (p. 39).

Treatment and care of patients

“(5) To the extent practicable, decisions in relation to treatment and care for a patient must be made in consultation with the patient and the patient’s family, carers and other support persons, subject to the patient’s right to privacy” (p. 51).

Rights of patients

“(3) The health service chief executive responsible for a public sector mental health service must appoint 1 or more independent patient rights advisers to advise patients and their nominated support persons, family, carers and other support persons of their rights under this Act” (p. 52).

Preparing statement of rights

*“(1) The chief psychiatrist must prepare a written statement (the statement of rights) containing information about—
(a) the rights of patients, and of nominated support persons, family, carers and other support persons, under this Act” (p. 212).*

Giving statement of rights to patients and others

“After admission of a patient to an authorised mental health service, the administrator of the authorised mental health service must ensure—

(c) a copy of the statement of rights is given to the patient’s nominated support person, family, carers and other support persons, if requested” (p. 212).

Rights of Patients - Visits by nominated support persons, family, carers and other support persons

“(1) A patient in an authorised mental health service may be visited by the patient’s nominated support persons, family, carers and other support persons at any reasonable time of the day or night.

(2) Subsection (1) does not apply if—

- (a) the person is excluded from visiting the patient under another provision of this Act; or*
- (b) the patient does not wish to be visited by the person” (p. 213).*

Understanding of oral information

“(1) This section applies if a provision of this Act requires any of the following persons to tell or explain something to, or discuss something with, a patient—

- (a) an authorised mental health practitioner;*
 - (b) an authorised doctor, including an authorised psychiatrist;*
 - (c) a doctor;*
 - (d) the administrator of an authorised mental health service;*
 - (e) an authorised person transporting a person to an authorised mental health service or public sector health service facility under section 366.*
- (2) The person must—*
- (c) if the patient has a nominated support person—tell or explain the thing to, or discuss the thing with, the patient’s nominated support person; and*
 - (d) if the patient does not have a nominated support person—tell or explain the thing to, or discuss the thing with, 1 or more of the patient’s family, carers or other support persons” (p. 214).*

Written notices to be given to nominated support persons and others

(1) “This section applies if—

- (a) a provision of this Act requires any of the following persons to give a written notice to a patient—*
 - (i) an authorised doctor;*
 - (ii) the administrator of an authorised mental health service;*
 - (iii) the chief psychiatrist;*
 - (iv) the tribunal; or*
 - (b) any of the following events (each a significant event) happens to a patient—*
 - (i) admission to an authorised mental health service as a classified patient;*
 - (ii) responsibility for the patient is transferred under chapter 11, part 5 from an authorised mental health service to another entity.*
- (2) If the patient has a nominated support person—*
- (a) for a written notice mentioned in subsection (1)(a)—*
 - (i) the person must give a copy of the required written notice to the nominated support person; and*
 - (ii) the person is not required to give the notice to the patient if the patient may not understand or benefit from receiving the notice; and*
 - (b) for a significant event mentioned in subsection (1)(b)—the administrator of the authorised mental health service must give a copy of the required written notice to the nominated support person.*
- (3) If the person giving a required written notice to a patient is aware the patient has a personal guardian or attorney—*
- (a) the person must give a copy of the required written notice to the personal guardian or attorney; and*
 - (b) for a written notice mentioned in subsection (1)(a)—the person is not required to give the notice to the patient if the patient may not understand or benefit from receiving the notice” (p. 217-218).*

Communication about patient with others

(1) “This section applies if a provision of this Act requires a person to tell or explain something to, or discuss something with, a patient’s nominated support persons, family, carers or other support persons.

(2) The provision does not apply if—

- (a) the patient requests, at a time when the patient has capacity to make the request, that the communication not take place; or*
- (b) the person is not readily available or willing for the communication to take place; or*
Example— the person is not willing to visit the patient in hospital while the patient is receiving treatment and care
- (c) the communication with the person is likely to be detrimental to the patient’s health and wellbeing.*
Example— the person has previously disrupted the patient’s treatment and care resulting in the patient’s condition deteriorating” (p. 218-219).

Roles and responsibilities of nominated support persons, family, carers and other support persons

Roles

“A patient’s nominated support persons, family, carers and other support persons, subject to this or another Act, may—

- (a) contact the patient while the patient is receiving treatment and care; and*
- (b) participate in decisions about the patient’s treatment and care, including by being consulted by health practitioners about treatment options; and*
- (c) receive timely, accurate and appropriate information about the patient’s treatment, care, support, rehabilitation and recovery; and*
- (d) arrange support services for the patient, including, for example, counselling, community care and respite care” (p. 220).*

Responsibilities

“A patient’s nominated support persons, family, carers and other support persons have a responsibility to—

- (a) respect the patient’s dignity and humanity; and*
- (b) consider the opinions and skills of health practitioners who provide treatment and care, and other services, to the patient; and*
- (c) cooperate, to the extent practicable, with reasonable programs of assessment, treatment, care, support, rehabilitation and recovery of the patient ” (p. 221).*

Independent patient rights advisers

“The functions of an independent patient rights adviser are to—

- (b) help the patient, and the patient’s nominated support persons, family, carers and other support persons to communicate to health practitioners the patient’s views, wishes and preferences about the patient’s treatment and care*
- (e) in relation to tribunal hearings—*
 - (i) advise the patient, and the patient’s nominated support persons, family, carers and other support persons of the patient’s rights at the hearings” (p. 223).*

Making policies or practice guidelines

(2) “Also, the chief psychiatrist may make a policy or practice guideline relating to the administration of this Act, including, for example, about the following—

- (h) supporting the rights of patients and their nominated support persons, family, carers and other support persons, including the ways in which information is to be communicated to the patients and their support persons” (p. 229).*

Transfers

Consideration regarding transfers includes if “the transfer is in the best interests of the person, including, for example, enabling the person to be closer to the person’s family, carers or other support persons (p. 260, 261, 305, 321, 331).