

CAN I SAY NO TO TREATMENT?

Under the Australian Charter of Healthcare Rights you have a right to:


- Partnership** – make decisions with your healthcare provider, to the extent that you choose and are able to.
- Information** – clear information about your condition, the possible benefits and risks of different tests and treatments, so you can give your informed consent.

As a voluntary adult mental health patient, you have the right to say no to treatment.

However, there are some instances where this right can be limited.

In public mental health settings, if the treating clinician believes you are unable to understand, weigh up, and communicate decisions about treatment, they may assess you as lacking capacity to make treatment decisions for yourself.

If you decline treatment, try to leave the hospital or attempt to discharge against medical advice*, this may trigger the treating clinician to assess you as lacking capacity and place you under the *Mental Health Act 2014*.

 **Discharge against medical advice (DAMA) occurs when you choose to leave the hospital or service before the treatment recommended by the treating team is finished.**

However, the clinician should not do this unless you meet all of the criteria below:

- 1 You have a mental illness that requires treatment
- 2 There is a significant risk to yourself or another person if you do not get treatment
- 3 You do not demonstrate capacity to make a treatment decision
- 4 Treatment in the community is not a viable option under current circumstances (if in hospital)
- 5 There is no less restrictive way of providing treatment

Questions to ask your treating team:

- What treatment do you think I need?
- What mental illness have you diagnosed me with?
- Can you tell me my rights?
- What are the implications if I refuse treatment?
- What are the alternative options for treatment?
- Can I get a second opinion?
- Have you discussed this with my treating team in the community?
- Can I speak with the consumer liaison? If not, who else can help address my concerns?



What if I'm told I'll be made involuntary if I refuse treatment or try to leave?

If you don't believe you meet the criteria under the *Mental Health Act 2014*, you can discuss this with your psychiatrist and ask them to explain how they think you meet these criteria:

- Do you think my mental health poses a risk to my health or safety?
- What evidence do you have of this?
- Do you think I pose a risk to myself or other people? What evidence do you have of this?
- What evidence do you have that shows that I don't have the capacity to make treatment decisions? Note: Capacity is assumed unless proven otherwise
- Can I access this treatment in the community? Do I have to be in hospital to access this treatment?
- Is there any less restrictive way that this treatment can be delivered? If so, can I access the treatment this way? If I can't, why?

An Advocate can help you to understand and exercise your rights. If you need advocacy assistance, you can contact these agencies:

Voluntary patients: Consumers of Mental Health WA: (08) 9258 8911
Health Consumers' Council: (08) 9221 3422

Involuntary patients: Mental Health Advocacy Service: (08) 6234 6300