

Standard 1.

Rights and responsibilities

The rights and responsibilities of people affected by mental health problems and / or mental illness are upheld by the mental health service (MHS) and are documented, prominently displayed, applied and promoted throughout all phases of care.

GUIDELINES

The intent of this standard is to ensure that consumers, carers and any other people affected by mental health problems are provided with information that will assist them to understand and exercise their rights and responsibilities while accessing mental health services (MHS).

Dignity and respect (Criterion 1.1)

All consumers have the right to treatment that respects their dignity and privacy. When consumers are placed in an environment where privacy is compromised because of essential treatment, then the MHS should have processes to ensure that they are treated respectfully and that full privacy is established as soon as practicable. Private waiting space and private rooms for assessments and consultations should be available.

Legislation (Criterion 1.2)

The MHS should have access to legislation, acts and guidelines related to their service. There are many sources for this information. Current information on relevant legislation, acts and guidelines, such as an extract from the Privacy Act or fact sheets are available from:

➤ <http://www.privacy.gov.au>

Information provided includes:

- national privacy legislation
- consumer information My health my privacy my choice
- information sheet on the Privacy Act
- guidelines on health privacy
- guidelines on research privacy.

Links to privacy legislation in all states and territories and international human rights instruments can also be found at

➤ <http://www.privacy.gov.au>

There should always be evidence of a process to incorporate and monitor compliance with legislation and guidelines.

Informed consent (Criterion 1.3)

Informed consent should always be obtained before any treatment and documented in the person's health record. When treating involuntary consumers, the MHS should involve their carers.

There needs to be clear policies about consent relevant to the age of consumers of the service. Custody and issues of legal guardianship should be addressed in policies.

Under some circumstances consumers may be subject to the provisions of mental health legislation, or have a legal guardian authorised to make a decision on their behalf. Services provided must be consistent with the relevant Commonwealth, state or territory mental health legislation and related Acts.

Rights and responsibilities information (Criteria 1.4, 1.5, 1.6, 1.7)

Current information on rights and responsibilities should be provided to consumers and carers as soon as possible after entering the MHS, or as soon as the consumer's mental state allows for comprehension of the information. It should then be provided at regular intervals throughout their care. This should be documented in the health record.

Rights and responsibilities information should be provided in an age and culturally appropriate way, in languages relevant and appropriate to the defined community. It should be presented in a variety of media, stating the different rights and responsibilities of the consumer, the carers and the MHS. Young people, such as consumers in child and adolescent area mental health services (CAMHS), should have their rights and responsibilities explained to them, as well as to their parent or guardian.

The involuntary consumer should be advised of their rights and responsibilities and provided with the relevant documents soon after admission to the service and at regular intervals after that until they are well enough to understand those rights and responsibilities. Involuntary consumers should be given the same opportunities to ask questions as voluntary consumers.

Copies of the *Mental health: statement of rights and responsibilities* (1991) is available at

➤ www.health.gov.au

and links to the human rights standards that Australia has agreed to uphold are available at

➤ <http://www.hreoc.gov.au>.

Written current information on rights and responsibilities for consumers and carers should include details of:

- the National Standards for Mental Health Services
- how to access an independent advocate, cultural informant or support person, such as a peer support worker or a consumer/carer consultant
- how to obtain an independent second opinion
- complaints procedures including contact details for independent bodies
- the responsibility of consumers and carers to treat staff and volunteers of the MHS with respect
- how staff of the MHS respect the rights of consumers and carers
- the responsibility of the consumer to disclose relevant information about themselves that may affect treatment.

Rights and responsibilities should be made known to staff and volunteers, be provided at orientation and be prominently displayed in every facility of the MHS. They should be available on the MHS website and via email, fax or post on request. This could include posters or brochures and fact sheets that can be downloaded from the internet.

The MHS should use videos, sound bites and guides for family members or cultural informants in multiple formats so that information is accessible to people with different levels of literacy.

The MHS can help a consumer understand and be understood by offering the following:

- the use of interpreters
- opportunities to ask questions
- the use of consumer advocates
- involvement of important family members or supporters in the discussion of rights and responsibilities.

Evidence should be included in the health record that rights and responsibilities were discussed verbally with the consumer and carers where appropriate.

Privacy and confidentiality (Criteria 1.8, 1.9)

The consumer's right to privacy and personal space should be considered in the layout and design of accommodation in inpatient facilities, private consulting and therapy rooms. This includes adequate space for visitors.

The MHS should provide the least restrictive environment possible for individual consumers. This should enable effective treatment to occur, while ensuring the safety and protection of other consumers, staff, visitors and members of the public.

When deciding on the least restrictive and safest environment the following factors should be taken into consideration:

- cultural factors such as the relationship to the living environment
- views
- outside areas
- non air-conditioned areas
- access to family and places for them to stay in inpatient units.

Confidentiality of personal information should be in accordance with Commonwealth, state or territory legislation and staff should be made aware of policies and procedures in regard to this.

Examples of where the consumer's right to privacy and confidentiality is evident include:

- provision of private waiting space
- availability of private rooms for assessments and consultations
- lockable cupboards for personal possessions
- staff discretion when discussing consumers
- use of accredited interpreters
- anonymity in providing feedback and suggestions to the MHS.

Involvement in care (Criteria 1.10, 1.11, 1.12)

The MHS should offer the opportunity to all those affected by mental illness to learn about mental illness by providing access to relevant information and support. Any information for consumers and carers should be reviewed regularly and updated at least every 24 months, with links to current legislation and covenants. Further information can be found in Standard 6 Promotion and prevention.

The consumer should be involved in their treatment, care and recovery planning and provided with information about their illness.

Although the MHS needs to respect confidentiality this does not preclude carers being involved in discussions concerning the consumer's treatment, care and recovery plan unless the consumer has refused or withdrawn consent. In this case general discussions may take place.

While the consumer has a right to have others involved in their care, it is important that the consumer also has the right to refuse the involvement of other staff or service providers nominated by the MHS providing this refusal does not impose a risk to the consumer or other staff or service providers.

The MHS should consider family and community relationships and the need for more than one person to be involved when nominating a consumer's representative. Services should develop a list of important people in the consumer's life and show evidence of consulting appropriately with these people.

Access to records (Criteria 1.13, 1.14)

Access by consumers to their own records should be in accordance to Commonwealth and state or territory legislation. Legislative exclusions to the right of access should be appropriately applied.

Policy and procedures about use, disclosure and handling of personal and health related information should address any issues that may be relevant to the mental health service.

Advocacy (Criterion 1.15)

Posters and brochures providing information on how to access advocacy services should be prominent in the MHS. Advocacy may include legal, housing, work, benefits, welfare and family services advocacy.

The service should document evidence of access to advocacy and support services in the individual consumer health record.

The MHS should provide ongoing training to staff and consumer advocates about the applicability of privacy and confidentiality legislation to their service, to enable them to answer questions from consumers and carers about legislation.

Consumer feedback (Criterion 1.16)

Posters and brochures providing information on complaint and grievance procedures should be prominently displayed in every facility of the MHS. This information should be available on the MHS website and via email, fax or post on request. This information should include contact details of the relevant state or territory Health Care Complaints Commission.

SUGGESTED EVIDENCE

Evidence that may be provided for this standard includes:

- rights and responsibilities brochure
- Privacy Commission fact sheets
- staff training module on rights and responsibilities, privacy and confidentiality
- posters or brochures on privacy

- translation of documents provided to consumers
- availability of copies of the National Standards for Mental Health Services
- health records review
- visual evidence of private consulting rooms
- developed standards and audit tools for culturally informed design of buildings and standards for culturally informed design and operation of inpatient units
- developed measure of true family involvement which may include extended family and supporters
- quantitative and qualitative methods to obtain consumer and carer satisfaction:
 - patient surveys
 - focus groups
- policies and procedures:
 - management of health information
 - use of interpreters
 - consumer advocacy
 - voluntary and involuntary consumers
 - consent process
 - privacy and confidentiality
 - complaints and grievances
 - cultural assessment
 - compliance with legislation.