INTRODUCTION

The Mental Health Act, 2001 provides for significant changes to certain aspects of mental health services in Ireland. Namely:

- Changes to the existing rules on admission to psychiatric hospitals in Ireland, in particular in the procedures for the involuntary detention of people for psychiatric care and treatment.
- An independent review procedure in the case of all involuntary detentions.
- The establishment of a Mental Health Commission of Ireland, Mental Health Commission review tribunals and an Inspector of Mental Health Services.
- The monitoring and regulation of the standards of care and treatment in approved psychiatric centres.
- Changes in the legal rights of psychiatric patients.

On November 1, all the remaining sections of the Mental Health Act will come into force following the signing of a commencement order by the Minister for Health. The College recommends that all GPs learn how this might impact on their practice.

MENTAL HEALTH COMMISSION

What is the Mental Health Commission?

The Mental Health Commission (MHC) is an independent statutory body established under the Mental Health Act, 2001. The Mental Health Act, 2001 brings Irish mental health law into line with the European Convention for the Protection of Human Rights and Fundamental Freedoms.

The MHC promotes high standards in the delivery of mental health services and ensures the interest of those involuntarily admitted to approved centres are protected.

For further information, you can download a pdf copy of the Mental Health Act, 2001 from the MHC’s website: http://www.mhcirl.ie. You can also download a copy of the European

To learn more about the Mental Health Act, 2001 users can visit the MHC’s e-learning website or you can access the Commission’s Reference Guide to the Mental Health Act, 2001: http://www.mhcirl.ie.

Help Line 1890 277 477

The Mental Health Commission is operating a helpline for mental health service staff from 31st October 2006 to 14th November 2006 to provide advice in relation to aspects of the legislation. You can contact the MHC on 1890 277 477 if you have any queries on aspects of the Mental Health Act, 2001. The help line is open from 9:30am to 12:30am and from 4:00pm to 7:00pm, Monday to Friday and on Saturdays and Sundays from 10am to 2pm.

If the help line is busy or you call out of hours you can submit your query on the frequently asked questions (FAQs) section of the MHC’s e-learning website.

Mental Health Commission’s Reference Guide

The Mental Health Commission’s Reference Guide is written to provide a clear and practical understanding of the major objectives and requirements of the Mental Health Act 2001, as at 26th August 2005.

Access the Guide online on the MHC's website: http://www.mhcirl.ie. Alternatively, you can contact them to request a copy. Contact the Mental Health Commission, St Martin's House, Waterloo Road, Dublin 4. Tel: +353(1) 636 2400, Fax: +353(1) 636 2440. Email: info@mhcirl.ie, Web: http://www.mhcirl.ie.

As there may be future amendments to the legislation, in response to advances in treatment of mental disorders and to developments in service delivery systems, you may wish to be notified via email of any future changes to the Reference Guide. Please send your contact details with a brief message to info@mhcirl.ie.

**DEFINITION OF A MENTAL DISORDER**

Legal Definition of a Mental Disorder (Section 3, MHA 2001)

Mental disorder means: mental illness, severe dementia or significant intellectual disability where:

- Because of the illness, dementia or disability: there is a serious likelihood of the person concerned causing immediate & serious harm to himself or herself or other persons, OR
- Because of the severity of the illness, dementia or disability: the judgement of the person concerned is so impaired that failure to admit the person to an Approved Centre would be likely to lead to a serious deterioration of his or her condition or would prevent the administration of appropriate treatment that could be given only by such admission and the reception, detention and treatment of the person concerned would be likely to benefit or alleviate the condition of that person to a material extent.

Exclusion Criteria for Involuntary Admission [MHA 2001 S8(2)]

It is not lawful to detain a person involuntarily in an approved centre solely because that person is:
(a) suffering from a personality disorder,  
(b) is socially deviant, or  
(c) is addicted to drugs or intoxicants.

The information above is given with kind permission from the Mental Health Commission.

INVOLUNTARY ADMISSION PROCEDURE FOR ADULTS

The majority of admissions to approved centres are on a voluntary basis. With the full implementation of the MHA 2001 from the 1st November 2006 there are new statutory criteria and procedures for involuntary admission to approved centres. Although the MHA 2001 provides for new procedures it does not replace clinical judgment and decision making. Under the MHA 2001 a person can only be admitted to an approved centre as an involuntary patient when the legal definition of mental disorder is met.

Follow the steps below to view new procedures when recommending involuntary admission.

STEP 1

Applicant:

- Spouse/relative of the person (Form 1)
- Authorised officer (Form 2)
- Member of an Garda Síochána (Form 3)
- Any other person/member of the public (Form 4)

is concerned that the person may have a mental disorder and within 48 hours of observing the person makes an application by completing the appropriate form [numbers 1-4].

The Mental Health Commission has sent all GPs a set of Forms 1-5. If you have NOT received these forms, or if you would like further copies, please contact the Mental Health Commission, St Martin's House, Waterloo Road, Dublin 4. Tel: +353(1) 636 2400, Fax: +353(1) 636 2440. Email: info@mhcirl.ie, Web: http://www.mhcirl.ie.

STEP 2

Application received by the registered medical practitioner (RMP) (e.g. GP). Within 24 hours of receipt of application RMP examines person [examine process and content of thought, the mood and the behaviour of the person concerned] and informs the person of the purpose of the examination [unless to do so, would in the RMP’s opinion be prejudicial to the person’s mental health, well-being or emotional condition].
Referral Letter for Mental Health Service Template

The RMP as a matter of good clinical practice may also provide a referral letter to the Clinical Director of the approved centre. A template for a referral letter is available to download on the ICGP website: [http://www.icgp.ie/library](http://www.icgp.ie/library). This HSE/ICGP approved template for a referral letter may be used by GPs to all sections of Mental Health Services. It was produced by a Multidisciplinary Steering Committee on Mental Health Services in Primary Care, and will be reviewed in 2007.

STEP 3

Applicant is responsible for securing the removal of the person to the relevant approved centre.

Where the applicant is unable to arrange such removal:

- At the request of the RMP, the clinical director of the approved centre (or consultant psychiatrist acting on his/her behalf) shall arrange for the removal of the person to the approved centre by members of staff of the approved centre.
- Where the RMP and the clinical director (or a consultant psychiatrist acting on his/her behalf) are of the opinion that there is a serious likelihood of the person concerned causing immediate and serious harm to self or others the clinical director (or a consultant psychiatrist acting on his/her behalf) may request an Garda Síochána to assist members of staff of the approved centre in removal of the person to the centre concerned and an Garda Síochána are obliged to assist (Section 13).

The information above is given with kind permission from the Mental Health Commission.

FREQUENTLY ASKED QUESTIONS

Q1: What is the purpose of the Mental Health Commission's Reference Guide on The Mental Health Act 2001?

The Mental Health Commission's Reference Guide is written to provide a clear and practical understanding of the major objectives and requirements of the Mental Health Act 2001, as at 26th August 2005. It is available for download on the Mental Health Commission’s website: [http://www.mhcirl.ie](http://www.mhcirl.ie).

As there may be future amendments to the legislation, in response to advances in
treatment of mental disorders and to developments in service delivery systems, the Reference Guide may be subject to updates. Therefore, if you download the Reference Guide for use it is your responsibility to check the Mental Health Commission website on a regular basis for updates as the Mental Health Commission can not be responsible for any out of date information. If you wish to be notified via email of any future changes to the Reference Guide please send your contact details with a brief message to info@mhcirl.ie.

This Reference Guide should not be relied on as a legal interpretation of the Mental Health Act 2001. It is not intended to be a complete or authoritative statement of the law and is not intended as legal advice or advice of any type. It is a Reference Guide only and must be read in conjunction with the provisions of the Mental Health Act 2001, any regulations made thereunder and any other relevant legislation.

The Minister for Health and Children signed the commencement order in relation to sections 1 to 5 and 7 (Part 1), and sections 31 to 55 (Part 3) of the Mental Health Act 2001 in April 2002. These sections refer primarily to the establishment of the Mental Health Commission and the appointment of the inspectorate of the mental health services by the Commission.

The Commission is committed to implementing the remaining parts of the Mental Health Act, 2001.

Q2: What does the GP Assessment for the FORM 5 Recommendation involve?

Answer: The registered medical practitioner must carry out an examination of the person who is the subject of the application. The examination should be carried out as soon as is practicable and, in any event, must be carried out within 24 hours of the application being made. The registered medical practitioner must, in particular, examine the process and content of thought, the mood and the behaviour of the person concerned. (Section 2, Mental Health Act, 2001).

Q3: Should the GP let the patient know about their involuntary admission?

Answer: The registered medical practitioner is obliged to inform the person of the purpose of the examination unless to do so would, in the opinion of the registered medical practitioner, be prejudicial to the person’s mental health, well-being or emotional condition. That the person was so informed must be confirmed by the registered medical practitioner on FORM 5 (Recommendation (by a Registered Medical Practitioner) for involuntary admission of an adult to an approved centre). (Section 10, Mental Health Act, 2001).

Q4: Should the GP give a copy of Form 5 to the applicant?

Answer: A copy of the recommendation must be given to the applicant (Section 10 (4), Mental Health Act, 2001). The Mental Health Commission has designed FORM 5 (Recommendation (by a Registered Medical Practitioner) for involuntary admission of an adult to an approved centre) in duplicate form, which will facilitate the registered medical practitioner giving a copy of the recommendation to the applicant.

Q5: If a GP refuses an involuntary admission to an applicant, can the applicant get a second opinion and does the applicant need to let the second GP know regarding previous refusal?

Answer: An applicant may seek a second opinion where a registered medical practitioner refuses to make a recommendation to admit a patient involuntarily to an approved centre. It is vital to note that any applicant, whether making an initial application or applying for a second opinion, is obliged by law to inform the registered medical practitioner from whom he seeks the recommendation or second opinion of the facts relating to the previous application and its refusal in so far as they are aware of them, as well as the facts relating
to any other application and its refusal made previously in relation to that person, as far as they are aware of them. Failure to do this is an offence. (Section 11, Mental Health Act 2001).

Q6: Who is responsible for removing the patient to the approved centre in case of involuntary admission?

The applicant is responsible for arranging the removal of the patient, the subject of the recommendation to the approved centre. Where the applicant is unable to make such arrangements, the registered medical practitioner who made the recommendation must request the clinical director of the approved centre specified in the recommendation (or a consultant psychiatrist acting on his or her behalf) to arrange for members of staff of the approved centre concerned to remove the person to that centre. The assistance of the Garda Síochána may be requested if the clinical director of the centre (or a consultant psychiatrist acting on his or her behalf) and the relevant registered medical practitioner are of the opinion that there is a serious likelihood of the person concerned causing immediate and serious harm to self or others. The Gardaí are obliged to assist members of staff of the approved centre in the removal of the person to the centre concerned.

Members of the Gardaí are empowered to enter, by force if necessary, any premises where they think the person concerned may be and may, if necessary, detain or restrain the person concerned in ensuring their removal to the approved centre. If a recommendation is made for involuntary admission to an approved centre a member of the Gardaí is responsible for transporting the person to the approved centre specified in the recommendation.

Q7: What is the role of the psychiatric nurse in the admission process?

Section 14(2) of the Mental Health Act 2001 states that “…A consultant psychiatrist, a medical practitioner or a registered nurse on the staff of the approved centre shall be entitled to take charge of the person concerned and detain him or her for a period not exceeding 24 hours (or such shorter period as may be prescribed after consultation with the Commission) for the purpose of carrying out an examination under subsection (1) or, if an admission order is made or refused in relation to the person during that period, until it is granted or refused.”

Q8: Do the Gardaí receive any training in the area of mental health?

The Mental Health Commission has been working closely over the past year with representatives from the Garda training college with regard to the provision of training on the Mental Health Act, 2001. A mental health awareness programme is in place for student Gardaí and also at in-service level.

Q9: Are patients entitled to a second opinion if the initial application is refused?

If an application for a recommendation has been refused, the applicant can apply for a recommendation in respect of the same person from another registered medical practitioner.

It is vital to note that any applicant, whether making an initial application or applying for a second opinion, is obliged by law to inform the registered medical practitioner from whom he seeks the recommendation or second opinion of the facts relating to the previous application and its refusal in so far as they are aware of them, as well as the facts relating to any other application and its refusal made previously in relation to that person, as far as they are aware of them. Failure to do this is an offence.

Q10: Is there a difference in the admission process of private vs GMS patients?

The admission process is the same for all persons who require an involuntary admission to an approved centre regardless of where that service is being provided i.e. Independent
sector or by the Health Service Executive.

Q11: Who makes up the Mental Health Tribunal and how does it operate?

The Mental Health Commission appoints three members to sit on a Mental Health Tribunal. The members will consist of a practising barrister or solicitor, who has been in practice for not less than seven years immediately prior to appointment, who will act as Chairperson, a consultant psychiatrist (retired consultant psychiatrists are eligible for appointment within seven years of their retirement), and a person other than a barrister, solicitor, consultant psychiatrist, registered medical practitioner or registered nurse. Each member of the tribunal has a vote and decisions are determined by a majority of votes. This means that the decision of the tribunal operates on a majority basis rather than one person having a decisive vote.

GLOSSARY OF TERMS

Admission Order
means the order authorising the reception, detention and treatment of the patient concerned and shall remain in force for a period of 21 days from the date of the making of the order in accordance with Section 15.

Application
means an application for a recommendation that a person be involuntarily admitted to an Approved Centre and 'applicant' shall be construed accordingly.

Approved Centre
means a hospital or other in-patient facility for the care and treatment of persons suffering from mental illness or mental disorder which is registered on the Register of Approved Centres in accordance with Section 63.

Mental Illness means a state of mind of a person which affects the person's thinking, perceiving, emotion or judgment and which seriously impairs the mental function of the person to the extent that he or she requires care or medical treatment in his or her own interest or in the interest of other persons.

Recommendation
means a recommendation made by a registered medical practitioner in a form specified by the Commission that a person be involuntarily admitted to a specified Approved Centre.

Registered Medical Practitioner
means a person whose name is entered in the General Register of Medical Practitioners.

Severe Dementia
means a deterioration of the brain of a person which significantly impairs the intellectual function of the person thereby affecting thought, comprehension and memory and which includes severe psychiatric or behavioural symptoms such as physical aggression.

Significant Intellectual Disability
means a state of arrested or incomplete development of mind of a person which includes significant impairment of intelligence and social functioning and abnormally aggressive or seriously irresponsible conduct on the part of the person.
MENTAL HEALTH VOLUNTARY ORGANISATIONS

Alzheimer Society of Ireland
Alzheimer House, 43, Northumberland Avenue, Dun Laoghaire, Co Dublin
Tel: 01 2846616
Helpline: 1800 341 431
Fax: 01 2846030
Email: info@alzheimer.ie
Web: http://www.alzheimer.ie

The Alzheimer Society of Ireland was established by a group of carers to provide support and services to people with dementia and their carers.

AWARE
72, Lower Leeson Street Dublin 2
Tel: 01 6617211
Helpline: 1890 303302 (Local)
Fax: 01 6617217
Email: info@aware.ie
Web: http://www.aware.ie

Aware is a voluntary organisation of patients, relatives and mental health professionals whose aim is to help people affected by depression.

Bodywhys
The Eating Disorders Association of Ireland, PO Box 105, Blackrock, Co Dublin
Tel: 01 2834963
Helpline: 1890 200 444
Email: info@bodywhys.ie
Web: http://www.bodywhys.ie

Voluntary support organisation for people with eating disorders, their families and friends. Support groups throughout the country a helpline and an education and awareness programme.

Console
All Hallows College, Gracepark Road, Drumcondra, Dublin 9
Tel: 01 8574300
Helpline: 1800 201 890
Fax: 01 8574310
Email: info@console.ie
Web: http://www.console.ie

Console is a Registered Charity supporting and helping people bereaved through suicide. We respect each individual’s unique journey through the grieving process following their tragic loss. Console promotes positive mental health within the community in an effort to reduce the high number of attempted suicides and deaths through suicide.

Grow
National Office: Ormonde Home, Barrack Street, Kilkenny
Tel: 056 7761624
Infoline 1890 474 474
Email: info@grow.ie
Web: http://www.grow.ie

Aims the individual to grow towards personal maturity by use of their own personal resources through mutual help groups.

Irish Advocacy Network
Irish Advocacy Agency, National Office, Old Rooskey House, Monaghan
Tel: 047 38918
Fax: 047 38682
Email: admin@irishadvocacynetwork.com
Web: http://www.irishadvocacynetwork.com

User run, use led organisation which exists to promote and facilitate peer advocacy on
Island wide basis. Our aim is to support people in speaking up for themselves achieving empowerment by taking control of their own lives.

**Mental Health Ireland**
Mensana House, 6 Adelaide St, Dunl Laoghaire, Co Dublin
Tel: 01 2841166
Fax: 01 2841736
Email: information@mentalhealthireland.ie
Web: [http://www.mentalhealthireland.ie](http://www.mentalhealthireland.ie)
*Promotion of positive mental health and support people with mental health difficulties and their families.*

**Out and About**
140, St. Lawrence’s Road, Clontarf, Dublin 3
Tel: 01 8338252
Fax 01 8334243
Email: oandamartinance@eircom.net
*A self help organisation for sufferers and their families of agoraphobia and panic attacks.*

**Samaritans**
112, Malborough Street, Dublin 1
Tel: 01 8727346
Helpline: 1850 609090
Email: jo@samaritans.org, or admin.dublin@samariatns.ie
*Available 24 hours a day to befriend those passing through personal crisis and in imminent danger of taking their own life.*

**Schizophrenia Ireland**
38, Blessington Street, Dublin 7
Tel: 01 8601620
Helpline: 1890 621631
Fax: 01 8601602
Email: info@sirl.ie
Web: [http://www.sril.ie](http://www.sril.ie)
*Advocates for those affected by schizophrenia and related illnesses and promoting and providing best quality services. For the people it serves.*