

NEW

Changes to Mental Health Act CARER FACTSHEET

22.2.2016



Health
Hunter New England
Local Health District

What is a Designated Carer/s?

The term 'designated carer' has replaced the term 'primary carer' in the MH Act

The designated carer is the person, nominated by the consumer, who has a close and personal relationship with them and is interested in their welfare, but does not necessarily provide day to day support for them.

The designated carer/s must consent to the nomination and not necessarily assume extra caring duties.

The Act also provides that the following people could be deemed to be the consumers 'designated carer' unless the consumer advises otherwise:

- Spouse or de facto partner
- A person who is primarily responsible for providing support or care to you (other than as a paid carer).
- A close friend or relative

The exceptions to this are if the consumer is under Guardianship Act 1987 or under the age of 15. In these circumstances the consumer cannot nominate a designated carers, the Act does.

A designated carer/s is not given authority to control a consumer's money, lifestyle choices, accommodation, relationships, or given information that a patient discusses in a therapy session, unless a serious risk of harm has been identified.

How is a designated carer/s nominated?

The amendments to the MH Act allow a consumer to now nominate up to 2 designated carers. A nomination remains in force for 12 months or until it is revoked in writing.

A nomination or revocation should **not** be put into force if:

- To do so may put the patient or nominated person at risk or harm;

- The patient was incapable of making the nomination or revocation.

In these circumstances, the Medical Officer may identify a Principal Care Provider.

What is a Principal Care Provider/s?

The principal care provider is the person/s who is primarily responsible for providing support and/or care but is not wholly or substantially paid on a commercial basis (this relates to CMO Providers not carers receiving a carer payment/allowance).

The Principal Care Provider is provided with the same information about the consumer as the Designated Carer.

Notification of carers of certain events

Designated carers and principal care providers are to be notified by the treating clinicians of events affecting the consumer, such as when the consumer is:

- Detained in a mental health facility;
- Absent from the facility without permission, or fails to return at the end of a period of leave;
- To be discharged;
- Reclassified or admitted as a voluntary patient;
- Considered for a community treatment order and an application is being made to the Mental Health Review Tribunal;
- Under a Community Treatment Order (CTO) which is being varied or revoked;
- Considered for Electro Convulsive Therapy (ECT) and an application is being made to the Mental Health Review Tribunal;
- Requiring a surgical procedure or special medical treatment and consent is being sought from the Mental Health Review Tribunal to be transferred, or has been transferred, between mental health facilities.

The amendments to the *Mental Health Act 2007* (NSW) were assented on the 28 November 2014 by way of the *Mental Health Amendment (Statutory Review) Act 2014*. These changes are now in force. <http://mhrm.mhcc.org.au/chapter-4/4j.aspx>

More info go to <http://www.hnehealth.nsw.gov.au/mh/Pages/Information-for-consumers-and-carers.aspx>