

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 be evidence of a process to incorporate and monitor compliance with legislation and guidelines where applicable.

Informed consent (Criterion 1.3)

Informed consent should always be obtained before any treatment and documented in the person’s health record.

Consumers may sometimes be subject to the provisions of mental health legislation, or have a legal guardian lawfully authorised to make, on their behalf, a decision that compels the consumer to receive treatment. Services provided must be consistent with the relevant Commonwealth and state and territory mental health legislation and related Acts.

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

Rights and responsibilities information should be provided in an age and culturally appropriate way, in languages relevant and appropriate to the defined community. The office based practitioner is responsible for ensuring that the patient and, if relevant, his or her carers understand their respective roles and responsibilities. This should be documented in the clinical record.

Written current information on rights and responsibilities available to consumers, carers and staff should include but not be limited to:

- a copy of the National Standards for Mental Health Services
- a copy of the *Mental health: statement of rights and responsibilities* (1991) available at www.health.gov.au

- complaints procedures including phone number and address of independent bodies
- the responsibility of consumers and carers to treat staff and volunteers of the MHS with respect
- how staff of the MHS uphold the right of consumers and carers to be treated with respect
- the responsibility of the consumer to disclose relevant information about themselves that may affect treatment.

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

- use of interpreters
- opportunity to ask questions
- use of consumer advocates
- involvement of important family members or supporters in joint 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 when 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 private consulting and therapy rooms. The environment should enable effective treatment to occur, while ensuring safety and protection of other consumers, staff, visitors and members of the public.

Confidentiality of personal information should accord with Commonwealth and state and territory legislation and staff should be made aware of relevant policies and procedures.

Examples of consumer rights to privacy and confidentiality being respected include:

- provision of private waiting space
- 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 who are affected by mental illness to learn about mental illness, through facilitating access to relevant information and support.

The consumer should be involved in their treatment, care and recovery planning and the provision of information about their illness will assist this.

While the need for confidentiality to be respected is recognised, this does not preclude the involvement of carers in discussions on the consumer's treatment, care and recovery plan. However, if the consumer has refused or withdrawn consent, general discussions may take place.

The consumer has a right to have others involved in their care, but it is important to recognise that they have the right of refusal if the MHS nominates to have other staff or service providers involved, providing this refusal does not impose a risk to the consumer or other staff or service providers.

Access to records (Criteria 1.13, 1.14)

Access by consumers to their own records should accord with 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 each mental health service.

Advocacy (Criterion 1.15)

Posters and brochures providing information on how to access advocacy services should be prominent in the MHS.

Evidence of access to advocacy and support services should be documented in the individual consumer health record.

SUGGESTED EVIDENCE

Evidence that may be provided for this standard includes:

- rights and responsibilities brochure/leaflet
- Privacy Commission fact sheets
- staff training module on rights and responsibilities, privacy and confidentiality
- examples of ongoing support for staff
- posters/brochures on privacy
- translated consumer provided documents
- the availability of copies of the National Standards for Mental Health Services
- health records review
- visual evidence of private consulting rooms etc
- quantitative and qualitative methods to obtain consumer and carer satisfaction
 - patient surveys
 - focus groups
 - informant interviews
- 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.