Mental Health Tribunal Hearing:
Important Updated Information for Treating Teams

The Mental Health Tribunal has scheduled a hearing for your patient. Details of the patient and the hearing are provided in the attached Notice. The Tribunal would be grateful if the treating team would take the following steps in preparation for the hearing, within the timeframes set out below.

PLEASE COMPLETE WITHIN 24 HOURS OF RECEIPT OF THESE DOCUMENTS:	**COMPLETED/INITIALS**
1. ***Recipient of this email:*** Please distribute these documents to all relevant persons.	☐
2. ***Responsible Practitioner or Case Manager:*** If the Patient has been transferred, please ensure the documentation is transferred to the new ward/team and the Tribunal is notified on registry@mht.wa.gov.au. Please email the Tribunal any relevant forms (such as Form 4C and or 5C).	☐
3. ***Responsible Practitioner or Case Manager:*** If the Patient is currently an inpatient, please arrange for hospital staff to hand a copy of the Notice of Hearing and all attachments to the Patient.	☐
4. ***Responsible Practitioner or Case Manager:*** Please email the following information to the Tribunal on registry@mht.wa.gov.au: Patient's email address and mobile phone number, as well as the name, postal address, email address and mobile phone number of any carer, close family member or other personal support person. Please also email a copy of any Form 12A currently in place to registry@mht.wa.gov.au.	☐
5. ***Responsible Practitioner or Case Manager:*** If the Patient's first language is not English and an interpreter is required at the hearing, please inform the Mental Health Tribunal so suitable arrangements can be made.	☐
PLEASE COMPLETE AT LEAST 3 DAYS BEFORE THE SCHEDULED HEARING:	
6. ***Patient's Psychiatrist:*** Please prepare a medical report (preferably on the Tribunal's approved form) addressing the section 25 criteria and the s394(1) mandatory considerations (copy attached) and provide a copy of the report to both the Patient and the Mental Health Tribunal at **least 3 days** before the hearing date. **Failure to do so may require the Tribunal to stand-down the hearing to require the psychiatrist to review the report with the patient during the scheduled hearing time.** This will increase the length of the hearing and cause inconvenience to patients and your colleagues.	☐
7. ***Responsible Practitioner or Case Manager:*** Please update the Patient's Treatment Support and Discharge Plan to ensure it complies with the Chief Psychiatrist's Guidelines for preparation, review and revision of treatment, support and discharge plans (copy attached) and provide a copy of the TSDP to both the Patient and the Mental Health Tribunal at least 3 days before the hearing date.	☐

PLEASE COMPLETE AS SOON AS PRACTICABLE AFTER IT OCCURS:

8. ***Responsible Practitioner or Case Manager:*** Please update the Mental Health Tribunal if you become aware of any advocates, lawyers, carers, close family members, nominated persons, or other personal support persons involved with the Patient who should be informed about the hearing. ☐

9. ***Responsible Practitioner or Case Manager:*** Please inform the Patient and the Mental Health Tribunal if the involuntary treatment order is revoked at any time prior to the hearing. Please email a copy of the revocation to registry@mht.wa.gov.au. This may permit the hearing time to be reallocated to another patient. ☐

10. ***Responsible Practitioner or Case Manager:*** Please inform the Patient and the Mental Health Tribunal if the involuntary treatment order is continued at any time prior to the hearing. Please email a copy of the Form 6C/5B to registry@mht.wa.gov.au. The Tribunal requires a copy of the Form to conduct the hearing. ☐

11. ***Responsible Practitioner or Case Manager:*** Please inform the Mental Health Tribunal if you are aware that the Patient is subject to an order of the State Administrative Tribunal pursuant to the *Guardianship and Administration Act 1990* (WA). ☐

PLEASE ENSURE FOR THE HEARING DAY:

12. ***Patient's Psychiatrist:*** Please attend the hearing to answer questions about your report from the Tribunal Members, the Patient, advocate, lawyer, or other interested persons. **The Tribunal generally requires the presence of the treating psychiatrist at the hearing**. ☐

13. ***Responsible Practitioner or Case Manager:*** Please ensure you are present at the hearing. ☐

14. ***Responsible Practitioner or Case Manager:*** Please ensure the Patient is present at the hearing. ☐

Thank you for your assistance with the above matters. Please do not hesitate to contact the Mental Health Tribunal if you have any queries.

REGISTRAR
MENTAL HEALTH TRIBUNAL

Extracts from
Mental Health Act 2014

25. Criteria for involuntary treatment order

(1) A person is in need of an inpatient treatment order only if all of these criteria are satisfied —

(a) that the person has a mental illness for which the person is in need of treatment;

(b) that, because of the mental illness, there is —

(i) a significant risk to the health or safety of the person or to the safety of another person; or

(ii) a significant risk of serious harm to the person or to another person;

(c) that the person does not demonstrate the capacity required by section 18 to make a treatment decision about the provision of the treatment to himself or herself;

(d) that treatment in the community cannot reasonably be provided to the person;

(e) that the person cannot be adequately provided with treatment in a way that would involve less restriction on the person's freedom of choice and movement than making an inpatient treatment order.

(2) A person is in need of a community treatment order only if all of these criteria are satisfied —

(a) that the person has a mental illness for which the person is in need of treatment;

(b) that, because of the mental illness, there is —

(i) a significant risk to the health or safety of the person or to the safety of another person; or

(ii) a significant risk of serious harm to the person or to another person; or

(iii) a significant risk of the person suffering serious physical or mental deterioration;

(c) that the person does not demonstrate the capacity required by section 18 to make a treatment decision about the provision of the treatment to himself or herself;

(d) that treatment in the community can reasonably be provided to the person;

(e) that the person cannot be adequately provided with treatment in a way that would involve less restriction on the person's freedom of choice and movement than making a community treatment order.

(3) A decision whether or not a person is in need of an inpatient treatment order or a community treatment order must be made having regard to the guidelines published under section 547(1)(a) for that purpose.

394. Things to which Tribunal must have regard

(1) In making a decision on a review under this Division in respect of an involuntary patient, the Tribunal must have regard to these things —

(a) if the involuntary patient is a child and the Tribunal is not constituted with a child and adolescent psychiatrist — the views of a medical practitioner or mental health practitioner specified in subsection (2);

(b) the involuntary patient's psychiatric condition;

(c) the involuntary patient's medical and psychiatric history;

(d) the involuntary patient's treatment, support and discharge plan;

(e) the involuntary patient's wishes, to the extent that it is practicable to ascertain those wishes;

(f) the views of any carer, close family member or other personal support person of the involuntary patient;

(g) any other things that the Tribunal considers relevant to making the decision.

(2) For subsection (1)(a), a medical practitioner or mental health practitioner must —

(a) have qualifications, training or experience relevant to children who have a mental illness; and

(b) be authorised by the Chief Psychiatrist for this paragraph.

Extract From: Chief Psychiatrist's Guidelines: As Required Under Section 547 of the Mental Health Act 2014 (December 2015 version)

Guideline (e): The preparation, review and revision of treatment, support and discharge plans.

To ensure that treatment, support and discharge plans are prepared and reviewed in the most inclusive, collaborative and timely manner with all appropriate stakeholders.
This Guideline should be followed in conjunction with the following Chief Psychiatrist's Standards:

- Care Planning Standard
- Consumer and Carer Involvement in Individual Care Standard
- Physical Health Care of Mental Health Consumers Standard
- Transfer of Care Standard.

1. Introduction and purpose

The Mental Health Act 2014 (Act) **(s.185)** states that any involuntary patient or mentally impaired accused patient admitted to an authorised hospital, or any person under a community treatment order (CTO) is required to have treatment, support and discharge plan.

The importance of creating and reviewing a treatment, support and discharge plan as early as possible with the appropriate people cannot be overstated. The completion and review of the plan is to provide coherent and consistent support for the patient. The plan should be developed using shared decision making and an overarching focus on recovery **(s.7)**. The plan outlines how the patient will be treated whilst under a treatment order, and how the support and treatment will continue following discharge. The creation and regular review of these plans is now a requirement in the Mental Health Act 2014.

The clinical team is to consider the wishes of the patient to the extent that is practicable. This includes any Advance Health Directive or terms of enduring power of guardianship made by the patient. Reasons not to follow these wishes must be documented as noted in the MH Act 2014. **(s.179)**

Involving the person experiencing mental illness in their treatment plans and decisions allows the person more control and self-determination. This assists the person to participate actively in their own self-care to adapt to and live with their mental illness and recovery.

Meaningful engagement between the treatment team, the patient and their personal support persons when the plans are being developed and reviewed creates a positive and engaging relationship. This therapeutic relationship is one of the most significant factors in improving treatment outcomes for people experiencing mental illness.

2. The Mental Health Act 2014

2.1 The treatment, support and discharge plan must outline the treatment and support that will be provided to any involuntary patient or mentally accused patient admitted to an authorised hospital or whilst under a treatment order in the community (CTO). **(s. 186)**

2.2 Additionally, the discharge plan must outline the treatment and support that will be provided to the patient following discharge from the authorised hospital or from the CTO. **(s.186)**

2.3 The patient's psychiatrist must ensure that the treatment, support and discharge plan is prepared as soon as possible after the patient is admitted into the hospital or once the CTO is made. **(s. 187)**

2.4 The patient's psychiatrist must also ensure that the following people are involved in the creation of the plan when appropriate:

2.4.1 The patient - who must always be involved (this also applies to a patient who is a child). Where a patient is temporarily unable, or is unwilling, to be fully involved in the process, repeated valid attempts will be required to engage the patient in dynamic, meaningful and individually relevant planning. These attempts must be documented.

2.4.2 If the patient is a child or required to have a guardian (or any person authorised by law to consent on person's behalf) then these people must be involved in the development of the plan and also require a copy of the plan.

2.4.3 The patient's personal support persons (Unless it is not appropriate to supply this information due to risks or concerns under sections 269(1), 288(2), 292(1)).

2.4.4 The psychiatrist must take a number of reasonable steps to ensure that the patient's personal support persons are contacted and included – and these steps must be filed in the clinical notes if the contact attempts are not successful.

2.4.5 If the patient is of Aboriginal or Torres Strait Islander descent, then significant members of the patient's community (including elders and traditional healers) and Aboriginal or Torres Strait Islander mental health workers must be consulted and included wherever possible. (s.189)

2.4.6 If the patient is from a culturally and linguistically diverse population, every effort must be made to address any language and cultural issues that may negatively impact on the person's ability to be consulted in developing treatment, support and discharge plans. This may involve including interpreters or members from the patient's community to assist with the development of the plans.

2.4.7 The psychiatrist should also ensure that any other appropriate persons or bodies (organisations) are involved in the treatment, support and discharge plans – for example the psychiatrist will involve relevant community clinical and other mental health services to ensure collaboration and support for the person on a CTO or for someone about to be discharged from an authorised hospital.

2.4.8 A record of the plan, involvement of any persons above and a record of attempts made to contact the personal support persons must be filed in the person's clinical notes. **(s. 188)**

2.5 The physical health treatment needs of the patient should be considered when developing the plans and included in the treatment plans if there are physical conditions which need to be monitored or addressed.

3. The National Standards for Mental Health Services 2010

The National Standards for Mental Health Services 2010 (NSMHS 2010) reinforce the actions required by the Act.

Extracts from the NSMHS 2010:

10.4 Consumers receive a comprehensive, timely and accurate assessment and a regular review of progress is provided to consumers and their carer(s).

10.4.5 The mental health service conducts a review of a consumer's treatment, care and recovery plan when the consumer:

- requests a review
- declines treatment and support
- is at significant risk of injury to themselves or another person
- receives involuntary treatment or is removed from an involuntary order
- is transferred between service sites
- is going to exit the MHS
- is observed through monitoring of their outcomes (satisfaction with service, measure of quality of life, measure of functioning) to be in decline.

4. Completion and Recording of treatment, support and discharge plans

4.1. Treatment and support plans are to be reviewed at least every 3 months, as described in the National Standards for Mental Health Services 2010. If this is not reasonable or possible, then the reason must be explained clearly in the clinical notes.

4.2. Copies of the treatment, support and discharge plan are to be given to patient, and their personal support persons.

Review Date:	12 months from the date of commencement