

Involuntary Treatment and Eating Disorders

Although involuntary treatment should be avoided whenever possible, situations do arise in which treatment is necessary for individuals whose illness is potentially life threatening, and in circumstances where lifesaving medical or psychological treatment is refused by the individual.

The involuntary treatment of individuals with an eating disorder is a serious matter and requires an effective care partnership between all team members.

A psychiatrist should always be involved in assessing whether the individual should be involved in the medical decision-making process around their treatment. The individual's decision-making capacity can be determined with consideration of the following (NSW Health, 2014):

1. Do they understand the information, and do they understand the consequence of non-treatment?
2. Do they believe the information?
3. Are they able to weigh-up the information and arrive at a choice?
4. Are they cognitively impaired by severe starvation?
5. Are they delusional about the necessity of adequate nutrition, threat to life, and the need for medical intervention?

If the individual does not satisfy all the criteria, then they do not have the capacity to make medical decisions regarding their treatment.

The Mental Health Act

Severely underweight individuals with an eating disorder very often meet criteria as mentally disordered under the Mental Health Act. Involuntary treatment under the Mental Health Act is only available where voluntary treatment is not successful, or the person lacks the capacity to consent to voluntary treatment.

Under the Mental Health Act, mental illness is a condition that seriously impairs, either temporarily or permanently, the mental functioning of a person, and is characterised by the presence of any one or more of the following symptoms in the person (NSW Government, 2021):

- (a) Delusions (a false, fixed, and irrational belief held in the face of evidence normally sufficient to negate that belief)
- (b) Hallucinations (a subjective sensory experience for which there is no apparent external source or stimulus)
- (c) Serious disorder of thought form (a loss of coherence: one idea does not follow or link logically to the next)
- (d) a severe disturbance of mood (a sustained and profound change in mood that substantially impairs a person's level of functioning)
- (e) Sustained or repeated irrational behaviour indicating the presence of any one or more of the symptoms referred (behaviour which a member of the community to which the person belongs would consider concerning and not understandable and the behaviour is sustained or repeated)

Whether or not the person is suffering from 'mental illness', in points (a) - (d) a person is considered to suffer from a mental illness if their behaviour is so irrational that a conclusion is made on reasonable grounds that temporary care, treatment or control of the person is necessary for the person's own protection. This temporary care is to protect the person and/or others from serious harm. Serious harm includes physical harm, emotional/psychological harm, neglect to self, and neglect to others (NSW Government, 2021).

Treatment under the Mental Health Act requires admission to a declared mental health facility (NSW Government, 2021). Involuntary treatment under the Mental Health Act extends to medication, movement restrictions, dietary plans, psychological therapies, re-hydration, and nasogastric feeding.

The Guardianship Act

A guardianship order can be made for a person with an eating disorder if they are partially or totally incapable of making treatment decisions because of a disability, which includes mental illness.

The guardianship order will specify a guardian (either a private or public guardian may be appointed) to make treatment decisions, such as consenting to treatment (NSW Government, 2021).

As medical wards in public hospitals and private eating disorder clinics are not declared mental health facilities, compulsory treatment in these settings needs to be sought under a guardianship order.

Parental Consent

In Australia, the legal age for medical consent varies according to which state the individual resides. If the child or adolescent is refusing treatment and is under the legal age for medical consent, then treatment can be given based on parental consent.

An adolescent, over the legal age for medical consent may also be a voluntary patient in a mental health unit, regardless of parental wishes. This requires agreement by the treating doctors that admission is necessary.

NSW Government. (2021). NSW Mental Health Act (2007) no. 8 Guidebook, Health Education and Training Institute. [PDF file]. Retrieved from: https://www.heti.nsw.gov.au/__data/assets/pdf_file/0009/457983/mental-health-act-2017-guidebook.pdf#:~:text=The%20NSW%20Mental%20Health%20Act%202007%28the%20%E2%80%98Act%E2%80%99%29%20establishes,those%20who%20work%20within%20the%20mental%20health%20system.

NSW Health. (2014). Guidelines for the Inpatient Management of Adult Eating Disorders in General Medical and Psychiatric Settings in NSW, NSW Ministry of Health. [PDF file]. Retrieved from: https://www.health.nsw.gov.au/mentalhealth/resources/Publications/inpatient-adult-eating-disorders.pdf_