



Western Cape  
Government

FOR YOU



Ring the Bell to Destigmatize  
Mental Illness

Department Health & Wellness:  
Western Cape Review Board

# ADMISSIONS UNDER THE MENTAL HEALTH CARE ACT 2002

Understanding the parallel legal and clinical requirements for mental  
health admissions.

July 2024

# Admissions under the MHCA

<b>Section 9 Admissions</b>	<b>Emergency admissions</b> Also referred to as Treatment without consent Relevant MHCA form: MHCA 01 Regulation 8
<b>Section 27 Admissions</b>	<b>Assisted admissions</b> Relevant MHCA Forms: 04, 05s, 07 Regulations 9 & 13
<b>Section 33 Admissions</b>	<b>Involuntary admissions</b> Relevant MHCA Forms: 04, 05, 07, 06, 08, 09, 10, 15 Regulations 10, 11, 12, 14, 15, 16
<b>Section 37 Admissions</b>	<b>MC 21 admissions</b> Magistrate order admissions following a forensic assessment for a minor offence Relevant MHCA forms MHCA 13A Other forms required: MC 21 & Forensic assessment Regulation 21
<b>Section 42 admissions</b>	<b>State patient admissions</b> Major offence Regulations 24 & 25
<b>Section 50 &amp; 52 admissions</b>	<b>Admissions of prisoners with mental illness</b> Relevant MHCA forms: 36, 37, 38

# Admissions under the MHCA

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- All restrictions require a degree of risk for the assessment for admission to be processed.
- **Emergency Admissions** – Section 09, MHCA 01
- **Assisted Admissions** – User is willing to receive care treatment and rehabilitation, but not able to make informed decisions – Section 27 & 28, MHCA 04, MHCA 05's & MHCA 07
- **Involuntary Admissions** – User is unwilling and not able to make informed decisions Section 33 & Section 34, MHCA 04, MHCA 05's, MHCA 07, MHCA 06's & MHCA 08

# PROCESS AND LOGISTICS VS EMOTIONS

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1. Purpose of the presentation is to equip family members with the knowledge and tools to facilitate an admission for their relative under the MHCA.
2. Each health facility has a slightly different process and it is recommended that for readmissions you return to what is familiar.
3. Stay firm in your decision to apply for assessment.
4. All you are doing as a family member is **making an application for assessment** – the findings of that assessment are out of your control. If you or the person does not agree with the findings, there is an opportunity to appeal the findings and the decision.
5. Prepare that every admission is traumatic for all involved, but the long-term consequences of not doing the admission are even more serious.
6. Travel to / transport to the Health Establishment
7. Understanding private vs public options.

# SECTION 9 ADMISSIONS

## SECTION 9 ADMISSIONS: TREATMENT WITHOUT CONSENT/ EMERGENCY ADMISSIONS

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For all admissions under the MHCA, except for the Section 9 admissions, treatment can only commence after an application, examination and decision. The MHCA documents used for this process may differ for the various admissions, but the principal is the same – application, then examination, then decision, then treatment can commence. For Involuntary admissions the forms are MHCA 04 (application) MHCA 05s(examination) and MHCA 07(decision).

**The MHCA prescribes that no treatment can be given unless a User is able to consent to and does consent to treatment. Sedation is a form of treatment. Also referred to as chemical restraint – this must be prescribed, and the user must consent to treatment if no examination and decision have been taken.**

**In some circumstances it is not possible to delay treatment until examination is complete. These are exceptional circumstances where there is high risk. The following circumstances are prescribed in Section 9:**

***Due to mental illness any delay in providing care, treatment and rehabilitation or admission may result in the:***

- i. Death or irreversible harm to the health of the User***
- ii. User inflicting serious harm to himself or herself or others or***
- iii. User causing serious damage to or loss of property belonging to him or her or others.***

## SECTION 9

# CONSENT TO CARE, TREATMENT AND REHABILITATION SERVICES AND ADMISSION TO HEALTH ESTABLISHMENTS

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**9 (1) Defines options for when a health care provider can provide care, treatment and rehabilitation services of admit a MHC User. Only 3 options are permitted:**

1. The MHCA User has **consented**
2. **Authorised by a court order or the Review Board** – Assisted, involuntary, MC 21 admissions, State Patient and Mentally ill prisoners
3. *Due to mental illness any **delay** in providing care, treatment and rehabilitation or admission **may result in the:***
  - i. *Death or irreversible harm to the health of the User*
  - ii. *User inflicting serious harm to himself or herself or others or*
  - iii. *User causing serious damage to or loss of property belonging to him or her or others.*

# SECTION 9

## CONSENT TO CARE, TREATMENT AND REHABILITATION SERVICES AND ADMISSION TO HEALTH ESTABLISHMENTS

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9 (2) Regulates how if a person is treated without their consent, or a court or the authorisation of the Review Board the 2 requirements for this:

1. This must be **reported in writing** in the prescribed manner to the Review Board
2. This treatment may not be longer than 24 hours unless an application in terms of Chapter V is made **within the 24-hour period.**



# LEGISLATIVE CHALLENGES

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1. Very little detail in Section 9 or Regulation 8 in comparison to all other admissions under the MHCA.
2. Regulation 8 merely confirms that Section 9 (1) (c) admissions must this must be reported in writing in the form of the MHCA 01 to the Review Board.
3. Necessary to be guided by best practice and other health protocols.
4. Not within the scope of the Review Board to provide clinical guidance on how best to ensure safest treatment options are used and to determine what the treatment protocol is.

## Section 9 Admissions - Practice

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If an Emergency admission is done, to authorise this a **MHCA 01** must be completed in full.

Within 24 hours of completing the MHCA 01 one of 3 outcomes **MUST** be selected:

1. An application must be made for involuntary or assisted care, treatment and rehabilitation (MHCA 04). The time and date of this application must be stipulated on the MHCA 01
2. Treatment without consent must stop and the User must receive voluntary care treatment and rehabilitation (MHCA 03).
3. The User must be discharged (MHCA 03).

The MHCA 01 must be submitted to the Review Board with the other documentation.

# MHCA 01, Regulation 8

FORM MHCA 01

DEPARTMENT OF HEALTH

REPORT TO MENTAL HEALTH REVIEW BOARD ON PROVISION OF CARE,  
TREATMENT AND REHABILITATION WITHOUT CONSENT OR EMERGENCY  
ADMISSION  
[Section 9(2) of the Act]

Surname of User .....

First name(s) of User .....

Date of birth ..... or estimated age .....

Gender: Male  Female

Occupation .....

Marital status: S  M  D  W

Residential address: .....  
.....  
.....  
.....

Date of admission: .....

Time of admission: .....

Name of health establishment: .....

**Reason for admission without consent:**

Based on my/practitioners at this health establishment's assessment, any delay in providing care, treatment and rehabilitation services / admission may, due to mental illness, result in:

(a) the death or irreversible harm to the User  
Reasons for this assessment (including mental health status and behavioural reasons) .....

(b) the User inflicting serious harm to him/herself or others.  
Reasons for this assessment (including mental health status and behavioural reasons) .....



Time must be inserted



Note that persons completing the MHCA 01 may base their decision on another person at the health establishment's assessment

- (c) the User causing serious damage to or loss of property belonging to him/herself or to others  
Reasons for this assessment (including mental health status and behavioural reasons) .....

I ..... (name of mental health care practitioner)  
hereby declare that I have personally assessed .....  
(name of mental health care User) at .....  
(name of health establishment) on .....(date).

Designation:.....

Contact Numbers: .....

Signature: .....

**Outcome of assessment within 24 hours-**

- (a) An application for involuntary or assisted care, treatment and rehabilitation was made:

Date of application ..... Time of application.....

- (b) The User agreed to voluntary care, treatment and rehabilitation.
- (c) Patient discharged as a mental health care User

Print initials and surname. ....

Signature: .....

(Health care provider  or Head of Health Establishment )

Date: .....

(Submit to relevant Review Board)

Yet on Page 2 it states that the person has personally assessed the User...

Outcome is frequently left blank, however either the MHCA 01 arrives with a Section 33 application or MHCA 03

Please note if signing on behalf of HHE, you need delegation. Rather mark as Health care provider as they are permitted to sign

# INVOLUNTARY VS EMERGENCY

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Both admissions are in circumstances where the MHCU:

1. Has **mental health symptoms**
2. **Does not consent** to treatment
3. Is likely to **inflict serious harm** to self or others

Yet emergency admissions state that **delay** may result in.....

The MHCA does not clarify how long the delay is, but it appears that this is a User who cannot be safely contained for any period in an EC or for safe transport to hospital.

It is a subjective decision – there are no guidelines.

There are higher medical risks related to treatment without examination.

The URGENCY for IMMEDIATE treatment must be recorded in the MHCA 01 – the likelihood of risk is insufficient.

# Assisted Admissions under the MHCA

Section 27 – Applications for assisted care, treatment and rehabilitation ( MHCA 04; 05 & 07)

Section 28 – Review of the assisted mental health care user by the Review Board ( MHCA 14)

## MHCA 04 APPLICATIONS – the founding affidavit

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- **Most important document of the process** – if the founding affidavit is flawed, the process is flawed.
- The applicant does need to be included in other communications – Notice of Decision (MHCA 07 ) and Outcome of the 72- hour assessment (MHCA 08). Ensure that the contact details of the applicant are clear for these further communications.
- The applicant does have the right to withdraw their application at any time.
- The applicant has the right to appeal the decision and the outcome of the 72-hour assessment.
- The Health Care provider can only be the applicant if the spouse, next of kin, partner, parent or guardian is UNWILLING, INCAPABLE or NOT AVAILABLE. If the health care provider is the applicant they are required to *“state their reasons for making the application and what steps were taken to locate the relatives of the User to determine their capability or availability to make the application.”*
- **No application can be hearsay – they are direct observations by the applicant recorded under oath.**



FORM MHCA 04

DEPARTMENT OF HEALTH

APPLICATION TO THE HEAD OF HEALTH ESTABLISHMENT CONCERNED FOR ASSISTED OR INVOLUNTARY CARE, TREATMENT AND REHABILITATION [Section 27(1) and 27(2) or 33(1) and 33(2) of the Act]

(A staff member assisting the Applicant in completing this form must record his/her name, surname and designation)

Name, surname and designation of staff member: .....

A. INFORMATION REGARDING THE USER

I hereby apply for :      Assisted care       or      Involuntary care

Surname of User: .....

First name(s) of User: .....

Date of birth: ..... or estimated age: .....

Gender:    Male     Female       Marital status:    S     M     D     W

Employment:      Yes       or      No

Own Property:      Yes       or      No

Income source:    Pension

Grant

Other  (Specify).....

None

Is there a reason to believe that an administrator or curator needs to be

appointed to manage the financial affairs of the User      Yes       No

If 'Yes', give reason:

Residential address and contact details: .....

.....

.....

.....

Who can act as the **scribe**?

Verbal assistance vs written assistance

Scribe & Commissioner of oaths

When you scribe – what happens when the applicant can't sign. How do you record the grounds – hearsay vs direct account?

Note – application for **Assisted/ Involuntary**

Check not covered by sticker

What happens if this request changes on MHCA 05's

Requirement to disclose income and make a recommendation for an **administrator/ curator**.

SASSA beneficiaries without property ownerships cannot have a curator/ administrator appointed

Persons employed may also have employment options restricted if a curator is appointed

Process for appointment of an administrator curator.

If indicated, ensure that the MHCA 05's are in agreement & evidence of efforts made recorded.



## B. INFORMATION REGARDING THE APPLICANT:

Surname of applicant: .....  
First name(s) of applicant:.....  
Date of birth of applicant: ..... (must be over 18 years of age)  
Residential address and contact details: .....  
.....  
.....

## C. Relationship between applicant and mental health care User: (mark with a cross)

Spouse  Partner  Associate  Parent  Guardian

Health care provider  Other .....(specify)

*(If User is under 18 this application must be made by the parent, caregiver, guardian or person with parental right and responsibilities)*

I last saw the User at ..... (place)  
on ..... (date)  
at ..... (time)

*(The applicant must have seen the User within seven days of making this application)*

## D. Why is the applicant the health care provider?:

The spouse, next of kin, partner, associate, parent or guardian of the User is:

(i) Unwilling (state reasons for this conclusion):

.....  
.....  
.....

or

(ii) Incapable (state reasons for these conclusions/ for this conclusion):

.....  
.....  
.....

or

(iii) Unknown/Untraceable (state efforts made to trace)

.....  
.....  
.....

Residential address and **contact details** for the Applicant. Efforts to be made to include telephone number and indication how they could best be communicated with. Also please give address of Health Facility if Health care provider

These are NOT the details of the scribe.

Note the changes **for applicants of Users under the age of 18 years** - parent, caregiver, guardian or person with parental rights and responsibilities. When the above is not available only the HHE can be the applicant NOT the Health care provider.

This needs to be completed (frequently left blank) User must have been **seen within seven days of making the application**. New format to reduce confusion

**When a Health Care provider completes the application the Act requires – “state steps taken to locate relatives in order to determine their capability or availability to make the application”**

When Health care provider **is the scribe** – this does not mean the Health Care provider is the applicant.

Applicants have certain rights, including the right to appeal or withdraw an application. Applicants may also be required to be present at Appeal Hearings. Scribes do not have similar rights and responsibilities.

This cannot be left blank – some clear indication of mental health symptoms – not violent/ aggression.

*“set out the grounds on which the **applicant believes that care treatment and rehabilitation are required**”*

Not hearsay – for e.g. The mother states that .....

This is a founding affidavit – **under no circumstances can pre-populated forms** be used, selection must be made by the applicant. Please do not record over the prepopulated form.

Please include the reports if they have been attached

Accessing Legal Representation

Reasons that an applicant may require representation. Who needs to do the referral if requested

**E. Reasons for the Application:**

I, the undersigned, am of the opinion that the above-mentioned person is suffering from a mental illness / intellectual disability for the following reasons (e.g, record what the User did or said from personal observations only):

.....  
.....  
.....  
.....  
.....

**F. In the case of an application for involuntary care:**

In your opinion:

(i) Is the User a risk to self and others due to mental illness?

Yes  No

(ii) Is the User willing to receive care, treatment and rehabilitation if needed?

Yes  No

(iii) Is the User able to make an informed decision?

Yes  No

**I also attach the following information in support of my application (if available):**

Medical certificates

History of past mental illness  / intellectual disability

Other  .....

**I wish to have representation/Legal representation/Legal Aid**

for myself: Yes  No

Or on behalf of the User: Yes  No

If Yes to any of the above, give reason: .....

.....

Print initials and surname (Applicant): .....

Signature (Applicant): .....

Date: .....

Place: .....

Note: Applicant must sign under oath/affirmation

### G. OATH/AFFIRMATION

I certify that on this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_  
at \_\_\_\_\_ the Deponent signed this affidavit in my presence and  
acknowledged that the Deponent:

- (a) Knows and understands the contents thereof;
- (b) Had no objection to taking the prescribed oath or no objection in affirming the contents thereof; and
- (c) Regarded the oath or the affirmation as being binding on their conscience

Before me.

\_\_\_\_\_  
Signature: Commissioner of Oath: Ex-Officio

Full name: .....

Rank / designation: .....

Full business address: .....

.....

.....



Do not use 'Certified Copy' stamp. Use date stamp

(Submit original to Review Board)

These are NOT the details of the scribe.

If the applicant cannot sign their name – the X or thumb print must be verified by the COO.

- **THIS DOCUMENT IS COMPLETED UNDER OATH AND IS NOT A CERTIFIED COPY!!!!**
- **ANY FAULT MAY MEAN THAT THE Com of Oaths has committed an act of perjury.**
- This must be done in the presence of the applicant
- The original version does not have a place for a stamp/ address, this is still a requirement. The Block is for the physical address where the oath was taken. The address can be hand written.
- It is the responsibility of the Commissioner to understand the process and requirements.
- When the form is commissioned at a health establishment vs elsewhere and the impact this has on timeframes and validity of the form.
- Please note that gender neutral oaths are accepted and there are gender neutral versions.
- Full name, Rank/ Designation and signature required.

# MHCA 04s for minors

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In terms of the MHCA a minor is a user **below the age of 18 years on the date of application.**

Application ( MHCA 04) must be made for the minor by the **parent or legal guardian** – slightly extended from the MHCA due to changes in the Children's Act 38 of 2005 to include – **parent, caregiver, guardian or person with parental rights and responsibilities.**

If the parent is NOT available it must be completed by the **custodian – the HHE.** The Health Care Provider cannot be the APPLICANT as they are not the custodian. The Children's Act confirms that the HHE ( referred to as the Medical Superintendent in the Childrens Act) may consent to medical treatment where the treatment is deemed so urgent that it cannot be deferred for the purpose of obtaining consent.

The HHE can do the **MHCA 04, MHCA 07, MHCA 08.**

It is not considered a conflict of interest

In the event that the HHE is not clinically trained, the head may consult with the mental health care practitioner for the reasons or observations.

# MHCA 05 – The Examination

## MHCA 05: THE EXAMINATION

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- On receipt of the Application, cause the User to be **examined by two mental health practitioners.**
- These examinations must be **independent.**
- At least one of the persons must be **qualified to conduct physical examinations.** Physical examination is required to exclude physical causes of presenting symptoms. A decision cannot be made if the examination is not complete.
- On completion of the examination the MHCPs must submit to the HHE their written findings on a MHCA 05 – particularly their recommendations with respect to risk and capacity to make informed decisions for the need for care treatment and rehabilitation and their willingness to receive this.

# MHCA 07 – The Decision



# MHCA 07 THE DECISION

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- The Head of the Health Establishment must check if the findings of the 2 assessments concur / differ and if they differ must cause the mental health care user to be examined by another mental health care practitioner – all 3 MHCA 05's to be submitted.
- If they concur the HHE must cause the MHCU to be admitted – the 72 hour assessment must start within 48 hours of the completion of the MHCA 04.
- Written notice of this decision with reasons thereof must be prepared by the HHE. Inform the applicant of decision and reasons for this. (MHCA 07) and send this notice to the Review Board.
- It is these **Reasons for the decision** that are considered when a User appeals the decision. It is the content of the MHCA 07 that the Judge considers when making the order or taking a matter on Review.
- Please be mindful of POPIA with respect to the reasons. A clinical diagnosis is information that the User is entitled to keep private. It is not a reason. That a person is 'dangerous' is also insufficient
- Typed, Handwriting, assistance for non-clinical HHEs

# MHCA 07 THE DECISION

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## HEAD OF THE HEALTH ESTABLISHMENT

4.     “(1) When a head of a health establishment makes a decision in terms of these Regulations that falls outside his or her scope of professional practice, he or she must act after consultation with the mental health care practitioner that conducted the assessment or any other mental health care practitioner.  
  
(2)     The duties and functions to be performed by the head of a health establishment in terms of the Act or these Regulations may in the absence of such head, be performed by the person appointed in writing by the head of the health establishment to act as head of such health establishment in his or her absence.”

# MHCA 07

## FORM MHCA 07

### DEPARTMENT OF HEALTH

NOTICE BY HEAD OF HEALTH ESTABLISHMENT ON HIS/HER DECISION WHETHER TO PROVIDE ASSISTED- OR INVOLUNTARY INPATIENT CARE, TREATMENT AND REHABILITATION SERVICES  
[Sections 27(9), 28(1), 33(7) and 33(8) of the Act]

#### Section 1

I ..... (name of Head of Health Establishment) hereby:

Approve the application

Do not approve the application

to the assisted care, treatment and rehabilitation

to the in-patient involuntary care, treatment and rehabilitation

of ..... (name of User)

#### Section 2

Whereas the findings of the medical practitioner and another mental health care practitioner concur that the User –

(a) Should  should not  receive assisted care, treatment and rehabilitation services ; or

(b) Must  must not  receive involuntary care, treatment and rehabilitation services

I am satisfied  not satisfied  that the restrictions and intrusions on the mental health care User's right to movement, privacy and dignity are proportionate to the care, treatment and rehabilitative services contemplated.

The reasons for consenting are as follows:

.....  
.....  
.....

Print initials and surname: .....

Signature:.....(Head of Health Establishment)

Date: .....Time.....

Place: .....

Time frame for the completion of the MHCA 07? – the examinations are required to be submitted as soon as these are completed

If assisted – specialist care, treatment & rehabilitation started within 5 days. For involuntary – 72 hour assessment must start immediately.

No MHCA 07 – Cannot start the 72 hour assessment.

If Assisted Outpatient treatment and care is indicated?

**Adequate reasons to be given and these reasons are to be given to the Applicant in writing** (copy of the MHCA 07). What are adequate reasons? What information should not be included (Confidential)? Handwritten? Typed?



# Involuntary Admissions under the MHCA

Section 33 – Applications to obtain involuntary care, treatment and rehabilitation ( MHCA 04; 05 & 07)

Section 34 – 72-hour assessment and subsequent provision of further involuntary care, treatment and rehabilitation. ( MHCA 06, 08 & 09)

# MHCA 06 – The 72 hour assessment

# 72 hour ASSESSMENT

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## Section 34 (1-3)

If the head grants the application for involuntary care, treatment and care services (signs the 07) he or she must:

1. Ensure the user is given appropriate care treatment and rehab services
2. Admit the user and request that a medical practitioner and another MH practitioner assess the physical and mental health status of the user over a period of 72 hours in the manner prescribed
3. Ensure the practitioners consider if involuntary treatment indicated and if this must be on an in-patient or out-patient basis.

# MHCA 06 THE FINDINGS OF THE 72-HOUR ASSESSMENT

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Regulation 11 of the Regulations is hereby amended by the substitution for subregulation (6) of the following subregulation:

“(6) The medical practitioner and another mental health care practitioner who conducted the 72-hour assessment must within 12 hours after the expiry of the 72-hour assessment period each submit a written report in the form of Form MHCA 06 of the Annexure to the head of the health establishment concerned, indicating his or her assessment on the physical and mental health status of the mental health care user and his or her recommendations concerning further treatment.”

# MHCA 08 & 09 – The Request



# MHCA 08 & 09 – FINDINGS OF THE HHE ON THE ASSESSMENT

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The Head must within 24 hours after the expiry of the 72-hour assessment make the findings of the assessment available to the applicant.

## **Findings:**

1. Does not warrant involuntary treatment (MHCA 03)
2. Warrants involuntary treatment on an out-patient basis (MHCA 09)
3. Warrants involuntary treatment as an in-patient (MHCA 08)

# MHCA 08 – NOTICE REQUESTING FURTHER INVOLUNTARY IN-PATIENT TREATMENT

FORM MHCA 08

DEPARTMENT OF HEALTH

**NOTICE BY HEAD OF HEALTH ESTABLISHMENT TO REVIEW BOARD  
REQUESTING APPROVAL FOR FURTHER INVOLUNTARY CARE, TREATMENT AND  
REHABILITATION ON AN INPATIENT BASIS [Section 34(3)(c) of the Act]**

- Completed within 24 hours of the expiry of the 72 hour assessment and make the findings of the 72-hour assessment available to the applicant within 24 hours of the completion of the 72-hour assessment.
- **Provide the basis for the request and findings of assessment.**
- Submitted to the Review Board within 7 days after the expiry of the 72-hour assessment
- What if 7 day period is exceeded?
- HHE is responsible for checking all documents – errors are the responsibility of the HHE to resolve.

I ..... hereby request the  
(name of Head of Health Establishment)  
approval from the Review Board for further involuntary care, treatment and  
rehabilitation on an inpatient basis of .....  
(name of User)

The findings of the mental health care practitioner and medical practitioner are that the User requires further involuntary care, treatment and rehabilitation.

I am satisfied that the restrictions and intrusions on the mental health care User's right to movement, privacy and dignity are proportionate to the care, treatment and rehabilitative services contemplated.

The basis of this request for further involuntary care, treatment and rehabilitation on an inpatient basis is that:  
.....  
.....  
.....

Attached hereto please find the copies of the following—

- (a) the application to obtain involuntary care, treatment and rehabilitation [MHCA 04];
- (b) the written findings given in terms of sections 27(5) and 33(5) [MHCA 05]
- (c) the notice given in terms of section 33(8) [MHCA 07]; and
- (d) the assessment findings [MHCA 06].

Signature: ..... (Head of Health Establishment)

Date: .....

Place: .....

# MHCA 09 NOTICE REQUESTING FURTHER INVOLUNTARY OUT-PATIENT

The User needs  
to receive a copy.

A MHCA 10 must  
be completed if  
the MHCA 09 is  
completed

FORM MHCA 09

## DEPARTMENT OF HEALTH

NOTICE BY HEAD OF HEALTH ESTABLISHMENT AFTER 72-HOUR  
ASSESSMENT PERIOD INFORMING REVIEW BOARD THAT MENTAL  
HEALTH CARE USER WARRANTS FURTHER INVOLUNTARY CARE,  
TREATMENT AND REHABILITATION ON AN OUTPATIENT BASIS  
[Section 34(3)(b) of the Act]

I ..... hereby inform  
(name of Head of Health Establishment)  
the Review Board that .....  
(name of mental health care User)  
requires further involuntary care, treatment and rehabilitation on an outpatient basis.

I am satisfied that the restrictions and intrusions on the mental health care user's right to movement, privacy and dignity are proportionate to the care, treatment and rehabilitative services contemplated.

The basis of this request for further involuntary care, treatment and rehabilitation on an outpatient basis is that:

- (a) The User is suffering from a mental illness or severe/profound mental disability and requires care, treatment and rehabilitation services for his/her health or safety or the health or safety of other people or for the protection of the financial interests or reputation of the User;
- (b) The User is currently incapable of making an informed decision on the need for the care, treatment and rehabilitation services
- (c) The User is refusing care, treatment and rehabilitation services

Signature: .....  
(Head of Health Establishment)

Date: .....  
Place: .....

[Copy to mental health care User and original to Review Board]

# MHCA 10 CONDITIONS FOR INVOLUNTARY OUT-PT

DEPARTMENT OF HEALTH  
FORM MHCA 10

**TRANSFER OF INVOLUNTARY MENTAL HEALTH CARE USER - SCHEDULE OF  
CONDITIONS RELATING TO HIS OR HER INVOLUNTARY OUTPATIENT CARE,  
TREATMENT AND REHABILITATION SERVICES**  
[Section 34(3)(b) or (5) of the Act]

Surname of User: .....  
First name(s) of User: .....  
Date of birth: ..... or estimated age: .....

Occupation: ..... Marital status: S  M  D  W   
Residential address: .....  
.....  
.....

Name of custodian into whose charge the User is discharged:  
.....

Address of custodian: .....  
.....  
.....  
.....

- i. The User's mental health status will be monitored and reviewed at  
..... (name of health establishment)
- ii. The User is to present him / herself to this health establishment every .....  
week/ month to have his or her mental health status reviewed.
- iii. Name of health establishment(s) where involuntary mental health care,  
treatment and rehabilitation will be provided on an outpatient basis if different  
from preceding health establishment:  
.....
- iv. Conditions of behaviour which must be adhered to by the User:  
.....  
.....  
.....  
.....

Name of psychiatric hospital and/or care and rehabilitation centre where the User is to be admitted if he / she relapses to the extent of being a risk to him / herself or others if he / she remains an involuntary outpatient, or to which he / she is to be admitted if the conditions of outpatient care are violated:

.....  
(name of health establishment)

Print initials and surname: .....

Signature: ..... (Head of Health Establishment)

Date: .....

Place: .....

.....  
Signature of User (understands and accepts the stipulated conditions)

.....  
Signature of custodian (understands and accepts the stipulated conditions)

**Note: User and Custodian  
must sign and both must  
receive copy.  
This must be signed by the  
HHE – or authorisation  
attached**

# MHCA 14 – APPEALS

# MHCA 15 – APPEAL AGAINST DECISION

FORM MHCA 15

DEPARTMENT OF HEALTH

APPEAL TO REVIEW BOARD AGAINST DECISION OF HEAD OF HEALTH ESTABLISHMENT  
ON ASSISTED- OR INVOLUNTARY MENTAL HEALTH CARE, TREATMENT AND  
REHABILITATION  
[Sections 29(1) and 35(1) of the Act]

**Details of User**

Surname of User: .....  
 First name(s) of User: .....  
 Date of birth: ..... or estimated age: .....

Gender: Male  Female:

Occupation: ..... Marital status: S  M  D  W

Residential Address: .....  
 .....  
 .....

Is the User the appellant? Yes  No

No to the above:  
 Surname of appellant: .....  
 First name(s) of appellant: .....  
 Contact number of appellant: .....  
 Residential address: .....  
 .....  
 .....

**Relationship between appellant and mental health care user: (mark with a cross)**

Spouse  Partner  Associate  Next of kin  Parent  Guardian

Caregiver  Other  ..... (specify)

Grounds for the appeal:  
 .....  
 .....  
 .....  
 .....  
 .....

Facts on which the appeal is based:

.....  
 .....  
 .....  
 .....  
 .....  
 .....  
 .....  
 .....  
 .....

I, the undersigned wish to have:

Representation: Yes  No

Legal Representation: Yes  No

Legal Aid: Yes  No

for myself or on behalf of .....

Representation?

Signature: .....  
 (Appellant)

Date: .....

Place: .....

**Timeframes for appeal**

It is important that written confirmation of advising  
 Users of their rights is given on admission MHCA  
 forms

# ADMISSIONS

# Admissions 2005 - 2022

Health Facility	2005 / 2006	2006 / 2007	2007 / 2008	2008 / 2009	2009 / 2010	2010 / 2011	2011 / 2012	2012 / 2013	2013 / 2014	2014 / 2015	2015 / 2016	2016 / 2017	2017 / 2018	2018 / 2019	2019 / 2020	2020 / 2021	2021 / 2022	Grand Total
Alexandra	166	134	159	159	232	231	223	321	126	149	99	85	29	43	20	17	25	2218
Alan Blyth	0	0	0	0	0	0	0	0	0	0	0	1	0	1	0	0	1	3
Beaufort West	0	0	1	26	23	11	7	5	6	1	17	21	52	48	46	28	50	342
Caledon	0	0	0	0	0	0	0	0	0	0	0	0	4	35	37	15	14	105
Ceres	0	0	0	0	0	0	4	3	2	5	6	3	35	103	111	65	110	447
Clanwilliam	0	0	0	0	0	0	0	0	0	0	2	6	5	6	4	1	2	26
Eerste River	0	0	0	0	0	0	0	64	82	25	80	363	934	949	776	753	934	4960
False Bay	0	0	0	0	0	0	0	3	3	68	112	110	223	302	276	220	317	1634
George	121	170	155	145	247	131	64	68	31	73	113	202	251	301	193	148	170	2583
GSH	7	66	97	289	377	736	573	265	468	720	1126	1235	1347	1794	1476	1200	1382	13158
Helderberg	0	0	0	0	0	0	0	85	0	0	133	385	518	695	567	543	621	3547
Hermanus	0	0	0	0	0	0	0	0	0	0	0	11	63	163	141	112	160	650
Karl Bremer	0	0	51	6	145	202	14	63	206	189	396	485	674	923	949	719	826	5848
Khayelitsha	0	0	0	0	0	0	0	2	0	0	29	343	661	1109	1333	1270	1554	6301
Knysna	0	0	0	2	31	8	2	6	0	1	1	10	11	10	9	6	14	111
Lapa Munnik	0	0	0	0	0	0	0	0	0	0	0	1	2	2	1	3	1	10



# Admissions 2005 - 2022

Health Facility	2005 / 2006	2006 / 2007	2007 / 2008	2008 / 2009	2009 / 2010	2010 / 2011	2011 / 2012	2012 / 2013	2013 / 2014	2014 / 2015	2015 / 2016	2016 / 2017	2017 / 2018	2018 / 2019	2019 / 2020	2020 / 2021	2021 / 2022	Grand Total
Mitchells Plain	0	0	0	0	0	0	0	0	0	276	627	828	1176	1462	1127	1054	1067	7617
Montaque	0	0	0	0	0	0	0	0	2	5	0	1	2	8	6	10	11	45
Mosselbay	0	0	0	0	3	2	3	2	6	5	3	2	18	20	25	16	13	118
Nelspoort	0	0	0	0	0	0	0	0	0	8	14	0	0	0	9	0	0	31
New Somerset	0	0	0	0	0	0	16	203	137	238	367	603	793	952	797	777	1055	5938
Otto Du Plessis	0	0	0	0	0	0	0	0	0	0	0	0	2	5	5	4	4	20
Oudtshoorn	0	0	3	58	40	11	4	9	14	21	25	17	39	26	43	27	15	352
Paarl	0	0	3	9	0	56	17	49	78	78	64	289	416	597	452	432	383	2923
Radie Kotze	0	0	0	0	0	0	0	0	0	0	0	11	50	56	61	66	23	267
Red Cross	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	2
Riversdale	0	0	0	6	19	16	8	5	5	5	5	6	19	30	24	16	23	187
Robertson	0	0	0	0	0	0	0	0	0	0	0	0	0	3	22	10	32	67
Stellenbosch	0	0	0	0	0	0	0	0	0	0	0	7	17	15	70	52	138	299
Stikland	1068	1050	803	886	1430	981	1160	1409	1468	1357	1051	714	438	514	397	414	433	15573
Swartland	0	0	0	0	0	0	0	0	0	0	0	38	32	62	81	58	167	438
Swellendam	0	0	0	0	0	0	0	0	0	2	0	1	1	10	3	6	8	31
Tygerberg	159	170	165	164	225	166	249	324	302	274	252	245	269	320	281	239	237	4041
Valkenberg	958	997	931	1059	1547	1273	1560	1555	1571	1675	1469	786	226	302	275	285	260	16729
Victoria	0	0	0	17	56	57	33	21	59	39	41	433	721	897	700	639	663	4376
Vredenburg	0	0	0	0	0	0	0	0	0	0	0	114	263	278	262	233	269	1419
Vredendal	0	0	0	0	0	0	0	0	0	0	0	5	6	5	5	6	4	31
Worcester	0	0	0	38	201	187	175	144	156	130	182	191	234	343	327	286	363	2957
<b>TOTAL</b>	<b>3575</b>	<b>3609</b>	<b>3308</b>	<b>3818</b>	<b>6206</b>	<b>5194</b>	<b>5310</b>	<b>6076</b>	<b>6096</b>	<b>6666</b>	<b>7338</b>	<b>8148</b>	<b>9872</b>	<b>12729</b>	<b>11169</b>	<b>10062</b>	<b>11522</b>	<b>120698</b>

# PATHWAYS FOR CHANGE

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From **5 to 38 health** establishments

- destigmatisation of mental health disorders
- upskilling of health care providers in treatment mental health conditions
- training health care providers on the legal requirements for mental health admissions
- monitoring and ensuring legislative compliance – MHCA documents and prescribed process
- infrastructure developments and accommodations for mental health care users
- Referral pathways and transfers
- engaging allied professionals – SAPs, Legal Aid, CBW

# WHERE ARE WE TODAY

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## - **Accept the challenge of on-going training –**

1. Health care providers have high turnover at the frontline;
2. There are regular and new legal precedents from the High court that highlight previously omitted aspects of the process;
3. The judges, the users, the review board have greater understanding of the MHCA and as such the compliance requirements are more rigid and complex.

## - **Infrastructure vs need**

1. More accessible = more admissions
2. Despite the upgrades in infrastructure and staff at a regional and district level, for e.g. KDH has 40 beds for mental health care users (1/3 of the beds at the hospital), this does not meet the need – KDH on average has 110 – 140 mental health care users admitted at any time. Similar at all referring hospital.
3. Efforts made to manage the pressure – 7 day circular, pathway meetings, 'crisis discharges', only 22.7% transferred to psychiatric hospitals
4. Vulnerable Users – geriatrics, minors, ID

## **Higher standards for legal compliance**

1. Good general compliance with the MHCA in public
2. Demands made by the Cape High Court
3. Legal challenges – Makana Peoples Centre, Life Esidemeni

# Contact with the Review Board

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Contact number: 021 370 1221

Gabiba Fakier

## **Clerks:**

Johnathon Arendse – LGH catchment

Natasha Samuels – Stikland Catchment

Casheena Hempe – VBH and Alexander Catchment

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Thank you

Michelle De Goede