



Western Cape  
Government

FOR YOU

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# The Mental Health Care Act 2002

After Admission: IOPs, Leave of Absence, Periodic review,  
Maximum Security, Discharge.

February 2025

# Admissions under the MHCA 2002

- Section 9, Section 27, Section 33 admissions under the MHCA are the most typical.
- What happens after the admission –
  - Transfer
  - Leave of Absence
  - Periodic review
  - Adjust status to Involuntary Out Patient
  - Discharge
  - When does private care become an option?
  - When does sub acute care become an option?
  - When do you need to make decisions about finances

# TRANSFERS – Section 34 (4); Regulation 19

- Section 34 (4)
- *If the mental health care user is to be cared for, treated and rehabilitated on an in-patient basis and the user has been admitted to a health establishment which is not a psychiatric hospital, that user must be transferred to a psychiatric hospital for treatment.*
- In the Western Cape 80% of admissions are not transferred before discharge –
  - Treatment closer to home;
  - Waiting lists;
  - Capacity of regional and district facilities

STAATSKOERANT, 23 DESEMBER 2016 No. 40515 315

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FORM MHCA 11

DEPARTMENT OF HEALTH

**TRANSFER OF ASSISTED / INVOLUNTARY MENTAL HEALTH CARE USER ON  
INPATIENT BASIS TO ANOTHER HEALTH ESTABLISHMENT**  
[Section 27(10) and 34(4), of the Act]

.....  
(name and surname of mental health care User)

an Assisted mental health care User

an Involuntary mental health care User

who was admitted to ..... (name of health establishment) on ..... (date) on an inpatient basis must be transferred to ..... (name of health establishment)

Print initials and surname: .....  
(Head of Health Establishment)

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

Date: .....

Place: .....

# LEAVE OF ABSENCE

- Regulation 26
- The HHE may grant leave of absence in the form of MHCA 27 to an assisted or involuntary mental health care user for a period not exceeding 2 months at a time provided that the terms and conditions to be complied with.
- The HHE may cancel the leave and direct the User to be returned to the HE by the custodian

# LOA MHCA 27

STAATSKOERANT, 23 DESEMBER 2016

No. 40515 347

## FORM MHCA 27

### DEPARTMENT OF HEALTH

#### GRANTING OF LEAVE OF ABSENCE TO A STATE PATIENT, ASSISTED OR INVOLUNTARY MENTAL HEALTH CARE USERS [Section 45, 66(1)(j) of the Act]

Surname of assisted/involuntary mental health care User.....

First name(s) of assisted/involuntary mental health care User .....

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

Gender: Male  Female

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

Residential address or custodian's name and address whilst on leave of absence:

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

The User is: (mark with a cross)

State patient  Assisted User  Involuntary User

Date of commencement of leave: .....

Due date of return from leave: .....

Name of health establishment where the User's mental health status will be monitored and reviewed: .....

The User is to present him- / herself to this health establishment every ..... weeks / months to be monitored and his / her health status reviewed.

Name of health establishment(s) where care, treatment and rehabilitation will be provided and the nature of this: .....

Conditions of behaviour which must be adhered to by the User:

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

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Name of psychiatric hospital where the User is to be admitted if he / she relapses and / or is not complying with the terms and conditions applicable to the leave:

Print initials and surname: .....

Signature: .....

(Head of Health Establishment)

Date: .....

Place: .....

Print initials and surname: .....

Signature: .....

(custodian)

Date: .....

Place: .....

# Periodic Review and Annual reports: Section 37; Regulation 21

- Six months after the commencement of care, treatment and rehabilitation services and every 12 months thereafter, the Head of the Health Establishment must cause the mental health status of the mental health care user to be reviewed.
- Such a review must –
  - State the capacity of the mental health care user to express self on the need for care, treatment and rehabilitation
  - State whether the mental health care user is likely to inflict serious harm on self or other people
  - State whether care, treatment and rehabilitation services that are less restrictive or intrusive on the right of the mental health care user to movement, privacy and dignity and
  - Make recommendations regarding a plan for further care, treatment and rehabilitation.

# Regulation 21 Periodic reports

12. Regulation 21 of the Regulations is hereby amended by—

(a) the substitution for subregulation (1) of the following subregulation:

“(1) A periodic review must be done on—

- (a) an assisted mental health care user in terms of section 30 of the Act using Form MHCA 13A;
- (b) an involuntary mental health care user in terms of section 37 of the Act using Form MHCA 13A;
- (c) a state patient in terms of section 46 of the Act using Form MHCA 13B;
- (d) a mentally ill prisoner in terms of section 55 of the Act using Form MHCA 13A.”

the substitution for paragraphs(a) and (c) of subregulation (2) of the following paragraphs:

the first review must be done by a psychiatrist or medical practitioner six months after the commencement of care, treatment and rehabilitation services;

(c) the reviews thereafter must be done every 12 months, provided that every alternate review shall be done by a psychiatrist or medical practitioner.”

(c) the substitution for subregulation (3) of the following subregulation:

“(3) With regard to a person referred to in subregulation (1)(d) periodic reviews must be done every six months by a psychiatrist or a medical practitioner.”

**1<sup>st</sup> report – after 6 months and completed by a psychiatrist or medical practitioner.**

**Thereafter every 12 months and every alternate review done by a psychiatrist or medical practitioner.**

# MHCA 13A

FORM MHCA 13A

DEPARTMENT OF HEALTH

**PERIODICAL REPORT ON MENTAL HEALTH CARE USER  
(ASSISTED/INVOLUNTARY USER/MENTALLY ILL PRISONER) [Sections  
30(2), 37(2) and 55(1) of the Act]**

**Section 1: Biographical information**

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

Gender Male  Female

The User is an: (mark with a cross)

Assisted User  Involuntary Inpatient  Involuntary Outpatient  Mentally ill prisoner

Name of health establishment concerned: .....  
Registration number (if any): .....  
Date of first admission of mental health care User under this section: .....

**Section 2: Assessment**

Mental health status: (Short statement of the mental health status before and since admission, since the last report, and the present condition, with special reference to any symptom indicating homicidal, suicidal or dangerous tendencies)

Before admission:

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

Since admission / previous periodical report:

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

Present mental status:

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

Diagnosis:

.....  
.....

**Section 3: Clinical management, treatment and rehabilitation plan**

Present treatment programme to be followed, including psycho-pharmacological, ECT, occupational therapy or psychotherapy social work intervention with family, leave of absence to family, etc):

Medical:

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

Psychological:

.....  
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.....

Social (including the safeguarding of the User's financial interests):

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

Occupational:

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

Physiotherapy (if required):

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

**Family contacts:**

Personal  Correspondence  Regular  Seldom  Never   
In the case of never, what has been done to trace the family?

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



# MHCA 13

## **Section 4: Recommendation in terms of Section 30 or 37 or 55(1)**

(a) The User is suffering from a mental illness or severe/profound intellectual 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; Yes  No

(b) The User is currently incapable of making an informed decision on the need for the care, treatment and rehabilitation services

Yes  No

and

(c) The User is refusing  / not refusing  care, treatment and rehabilitation services

Should the User status remain unchanged? Yes  No

Briefly motivate:

.....  
.....

If the User is an involuntary inpatient, should he / she be transferred to involuntary outpatient care?

Yes  No

Briefly motivate:

.....  
.....

Please add additional paper if required, as this is extremely important:

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Print initials and surname of assessing practitioner: .....

Signature: ..... (Assessing practitioner)

Date: .....

Place: .....

## **Section 5: Instructions and remarks by Head of Health Establishment**

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

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

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

Date: .....

Place: .....

# WHAT IS AN IOP

- Section 34(5) If at any time after the expiry of the 72-hour assessment period the Head of the Health Establishment is of the opinion that the User who was admitted on an involuntary in-patient basis is fit to be an out-patient, he or she must –
  - Discharge the user according to the prescribed conditions or procedures and
  - Inform the Review Board in writing
- (6) the Head of the Health Establishment may cancel the discharge and request the user return to the health establishment on an involuntary in-patient basis if the HHE has reason to believe that the User fails to comply with the terms and conditions of such a discharge.

# WHEN CAN STATUS BE CHANGED TO IOP

## 1. WHEN THE DECISION FOR INVOLUNTARY OUT-PATIENT STATUS DIRECTLY AFTER THE 72 HOUR ASSESSMENT. SECTION 34 (3)

### 1. MHCA documents to be submitted to the Review Board:

1. MHCA 04
2. MHCA 05 (2)
3. MHCA 07
4. MHCA 06 (2)
5. **MHCA 09 – Notice of decision of the HHE - Section 34 (3bii)**
6. **MHCA 10 - conditions – Section 34 (3bii)**

2. **Time frame:** No time frame is given within the Act but Regulations 18 – 20 apply to Section 34 (3) decisions. The regulations state that notice of the transfer of an involuntary mental health care user to outpatient must be given to the Review Board **within 2 weeks of the decision.**

## 2. WHEN THE DECISION FOR INVOLUNTARY OUT-PATIENT STATUS FOLLOWS A PERIOD OF INVOLUNTARY IN-PATIENT TREATMENT – REGULATIONS 18 - 20

### 1. MHCA documents to be submitted to the Review Board:

1. MHCA 10 – Conditions
2. MHCA 12 – Change of status
3. Note - this process cannot be followed if the involuntary in-patient process has not been followed (MHCA 04, 05's, 07, 06's & 08) and submitted to the Review Board within 7 days of the completion of the 72-hour assessment.

2. **Time frame:** Notice of the transfer of an involuntary mental health care user to outpatient must be given to the Review Board **within 2 weeks of the decision.**

# Regulation 18 : IOP

User and Custodian must be provided with a **schedule of conditions** for on-going out-patient care, treatment and rehabilitation  
The schedule of conditions must be **read to the User and custodian** and be understood and signed.

The **conditions must include:**

1. Name of custodian
2. Name of Health Est where User will follow up and monitored & time frame for each review.
3. Name of Health Establishment where receive treatment as an alternative
4. Behaviour that must be adhered to by the User.
5. Name of psychiatric hospital where the user must be readmitted if the user relapses to the extent that he or she is a danger to self or others if he or she remains an outpatient or
6. The conditions of out-patient care are violated

The Health establishment must **provide a copy of the conditions** to the mental health care user, the custodian and the health establishment where the User is to follow up & the Review Board

If the User does **not accept the conditions**, the User must remain an involuntary in-patient

A **custodian** into whose control the mental health care User has been entrusted must take over the responsibility for that User where that User is discharged from the Health establishment concerned.

If a custodian into whose control a mental health care user has been entrusted, intends to **change the place** where that User resides and that change requires using another health establishment – where the user will be reviewed and where the user will receive treatment, that custodian must apply in writing to the current HHE for change to another HHE.

When a mental health care user does not present for monitoring and review, that User must be **deemed as absconded** and SAPs must be informed to return the User with a MHCA 25

# THINGS TO NOTE:

- Agreement of the MHCU to conditions, does not mean insight or acceptance
- Monitoring and review - health establishments
- Responsibilities of the custodian

# MHCA 09 NOTICE REQUESTING FURTHER INVOLUNTARY OUT PATIENT

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]

- The **User** needs to receive a copy
- Needs to have a MHCA 10 completed if the MHCA 09 is completed

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: .....

# MHCA 10 CONDITIONS FOR INVOL 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 12

## FORM MHCA 12

### DEPARTMENT OF HEALTH

#### DISCHARGE OF INVOLUNTARY MENTAL HEALTH CARE USER FROM INPATIENT TO OUTPATIENT CARE OR CANCELLATION OF THE DISCHARGE [Section 34(3) and 34(6) 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: .....  
.....  
.....

#### **A. Discharge from inpatient to outpatient care**

This involuntary inpatient at ..... (name of health establishment) has improved to such an extent that he/she should be provided with care, treatment and rehabilitation services as an outpatient as dated on the schedule of conditions attached to this transfer as outlined in the attached MHCA 10.

#### **B. Cancellation of the discharge**

This involuntary outpatient previously discharged with prescribed conditions on ..... and being monitored and reviewed at ..... has not complied with the terms and conditions applicable to his / her discharge / relapsed to the extent of being a risk to him / herself or others if he / she remains an involuntary outpatient, and must be admitted as an involuntary inpatient to ..... (name of health establishment)

Specific reasons for transfer to inpatient care are:.....  
.....  
.....  
.....

Print initials and surname: .....  
Signature: ..... (Head of Health Establishment)  
Date: .....  
Place: .....

- This is to be completed only if an **MHCA 08** was originally completed.
- Please check that the High Court order is in place to verify involuntary status. If there were errors in the original assessment process, a High Court Order will not be issued.
- DO NOT complete **MHCA 03** if completing MHCA 12. you only do an O# when deciding to remove the Involuntary status.
- Please give reasons for transfer to in-patient care.



# DISCHARGE: SECTION 38, Regulation 17

For discharge of Involuntary Users – recovery of capacity to make informed decisions

- 1. If the Head is of the opinion from personal observation, information obtained or receipt of representations by the User, that the user is capable of making informed decisions, he or she must enquire from the User if they are willing to voluntarily continue with care, treatment and rehabilitation services.
- If the user consents to further care, treatment and rehabilitation then the User is entitled to this on a voluntary basis.
- If the User is unwilling to continue with treatment and the HHE is satisfied that the User no longer has a mental illness, the head must immediately cause the User to be discharged.

# MENTAL HEALTH CARE USER DISCHARGES

- To ensure compliance with discharge the following are required:
  - 1. The User must be fit to be an out-patient
  - 2. The User must be discharged according to prescribed conditions or procedures or discharged according to accepted clinical practices.
  - 3. The Review Board must be informed in writing
- Users who are fit to receive treatment and rehabilitation as out-patients should be referred to health establishments where they can access the treatment they require.

Involuntary vs State patient discharges

Personality disorder as the primary diagnosis

Capacity vs wellness

# MHCA 03 - DISCHARGE

FORM MHCA 03

## DEPARTMENT OF HEALTH

### DISCHARGE REPORT FROM THE MENTAL HEALTH ESTABLISHMENT [Section 16, 37(6) or 56 of the Act]

Full name of User: .....  
ID Number: .....  
Date of birth: ..... or estimated age .....

Gender:                    Male     Female

Name of health establishment: ..... Date of admission: .....

Date of discharge: .....

Diagnosis on discharge: ..... Planned further care, treatment and rehabilitation: .....

.....

.....

.....

#### Compiled by:

Print initials and surname:.....  
Designation:.....  
Signature:.....

#### Head of Health Establishment

Print initials and surname:.....  
Signature: .....  
Date : .....

[Copy to be submitted to the relevant authority in terms of the applicable provision]

Review Board   
Registrar High Court   
Magistrate   
Head of Prison   
Head of National Department   
Curator

When must a MHCA 03 be signed – if the MHCA 07 is completed and signed then a MHCA 03 must be completed. The MHCA 08 is then not indicated

Planned further care, treatment and rehabilitation to be clearly recorded and comprehensive.

This is meant to be signed by HHE but can be compiled by the clinician

Please indicate who the MHCA 03 has been sent to – some variation for Assisted Users by agreement in this province

# OTHER

- Public vs private
- Finances
- Consent to surgical and medical procedures
- User of ECT
- Transfer to Maximum security facilities