

**Interstate Guidelines pursuant to the  
Ministerial Agreement  
between New South Wales and South Australia  
relating to mental health  
22 June 2010**

## **Contents**

- 1. Introduction**
- 2. Local Protocols**
- 3. Definitions**
- 4. Agreed Principles**
- 5. Referrals, Triage and Assessment**
- 6. Involuntary Admission to Interstate Facilities**
- 7. Planned Transfer of Interstate Persons**
- 8. Transfer of Treatment and Care on Discharge from Inpatient Care**
- 9. Apprehension of Interstate Persons Absent Without Leave**
- 10. Transport**
- 11. Amendment of the Guidelines**
- 12. Counterparts**

## 1 Introduction

- 1.1 These Guidelines have been developed pursuant to the signing of a Ministerial Agreement ('Agreement') between New South Wales and South Australia on 18 March 2009.
- 1.2 The Agreement was made pursuant to Chapter 8 of the *Mental Health Act 2007* (NSW) and the *Mental Health Regulations 1995* (SA), made pursuant to s37(2)(g) of the *Mental Health Act 1993* (SA).
- 1.3 The Agreement provides for:
- the involuntary admission of interstate persons to facilities in New South Wales and South Australia;
  - the planned transfer of interstate persons between facilities in New South Wales and South Australia;
  - the apprehension of interstate persons who abscond from New South Wales to South Australia and from South Australia to New South Wales;
  - the development of Approved Procedures, relevant to Chapter 8 of the New South Wales Act, and to the Regulations pursuant to s37(2)(g) of the South Australian Act and Guidelines pursuant to Part 10.1 of the Agreement.
- 1.4 These Guidelines do not apply to forensic patients under the provisions of s4 of the New South Wales *Mental Health Act 2007* or the s269 mental impairment provisions of Part 8A, *Criminal Law Consolidation Act 1935* (SA) or Police prisoners.<sup>1</sup>
- 1.5 In addition to providing operational guidance, the Guidelines also establish the agreed principles for when and how mental health services are provided by New South Wales and South Australia to residents of the other State. They have been written in the expectation that local protocols between services along the New South Wales and South Australian border may be developed to adopt a more flexible approach to improve mental health service delivery for local communities.

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<sup>1</sup> In South Australia a person who is a 'police prisoner' may, at times, also be a patient who is detained under the *Mental Health Act 1993* (SA) and from 1 July 2010, under the *Mental Health Act 2009*.

## **2 Local Protocols**

### ***General Principles***

- 2.1 Under these Guidelines, local protocols may be agreed between services in New South Wales/South Australia to meet the particular needs of local communities and services.
- 2.2 These Guidelines provide for cooperation between any Mental Health and/or Emergency Services (including Mental Health, Police, Ambulance and Flying Doctor Services) that may identify where local protocols between particular services are appropriate.
- 2.3 The effective operation of the Agreement and the Guidelines relies on collaborative relationships based on good communication and regular liaison between stakeholders including New South Wales and South Australia Police, Ambulance, Flying Doctor Services, medical practitioners, carers, consumers and Facilities.
- 2.4 If a local protocol is developed for use, a copy will be provided, in the case of South Australia, to the Director Mental Health Operations, SA Health and in the case of New South Wales, to the Director, Mental Health and Drug and Alcohol Programs New South Wales Department of Health, New South Wales. (See Annexure 1 for contact address).

### ***Dispute Resolution***

- 2.5 Any disputes arising over the implementation of these Guidelines, the Agreement or any other issues arising in relation to the interstate movement of persons covered by the Agreement may, if they cannot be resolved at a local level, be addressed with the appropriate management of that agency.
- 2.6 If disputes cannot be resolved in this manner, they shall be referred to the Contact Officers for resolution pursuant to the Agreement. In the case of South Australia, the Director Mental Health Operations, SA Health, and in the case of New South Wales, the Director Mental Health and Drug and Alcohol Programs, New South Wales Department of Health.

## **3 Definitions**

The following words and expressions in the Agreement and these Guidelines have the following meanings unless the context otherwise requires:

“**Agreement**” means the Ministerial Agreement between New South Wales and South Australia including the Schedules and any Annexure;

**“Approved Treatment Centre”** or **“ATC”** means any hospital, clinic or other premises, or any particular part of such a place, declared under Part 2 of the South Australian Act to be an ATC for the purposes of the South Australian Act;

**“Authorised Medical Officer”** has the same meaning as under the definition of “authorised officer” in s4 of the New South Wales Act;

**“Civil Interstate Apprehension Order”** means a document that sets out the information specified in Part 7 of the Agreement and is set out in Schedule 2 to the Agreement, as amended from time to time in accordance with Part 7.2 of the Agreement;

**“Civil Interstate Transfer Request Notice”** means a document that sets out the information specified in Part 6 of the Agreement and is set out in Schedule 3 to the Agreement, as amended from time to time in accordance with Part 6.6 of the Agreement;

**“Contact Officer”** means the person or persons so described in Schedule 1 of the Agreement;

**“Corresponding Law”** means:

- (a) with respect to New South Wales, the South Australian Act as declared under and in accordance with s170 of the New South Wales Act; and
- (b) with respect to South Australia, the New South Wales Act as declared in the *Mental Health Regulations 1995 (SA)*;

**“Declared Mental Health Facility”** means premises in relation to which the Director-General of the Department of Health has made an order under s109 of the New South Wales Act;

**“Facility”** means a Declared Mental Health Facility in New South Wales or an Approved Treatment Centre (ATC) in South Australia;

**“Interstate Person”** with respect to New South Wales, means a person who at the relevant time is in South Australia; and, with respect to South Australia, a person who at the relevant time is in New South Wales;

**“Interstate Transfer Order”** means an order under s176 of the New South Wales Act and Clause 29 of the New South Wales Regulations;

**“Involuntary Patient”** in New South Wales has the same meaning as under paragraph (a) of the definition of ‘involuntary patient’ in s4 of the New South Wales Act;

“**Medical Practitioner**”, with respect to South Australia, has the same meaning as under the *Medical Practice Act 2004 (SA)*;

“**New South Wales Act**” means the *Mental Health Act 2007 (NSW)*, including any regulations and orders made under that Act (but for the purposes of the Agreement a reference to the New South Wales Act does not, unless expressly provided, include a reference to the South Australian Act on the basis that the South Australian Act has been declared a corresponding law under that Act);

“**New South Wales Regulations**” means the Regulations made pursuant to Chapter 9 of the New South Wales Act in relation to matters provided for in the Agreement;

“**New South Wales Department of Health**” means the Department of Health established by Administrative Changes Orders made in accordance with the *Public Sector Employment and Management Act 2002 (NSW)* and any successor in law to the said Department;

“**Police**” means New South Wales Police Force and/or South Australia Police;

“**Patient**” with respect to South Australia, has the same meaning as in s3 of the South Australian Act;

“**Receiving Facility**” means the Facility to which it is proposed to transfer a person in accordance with Part 6 of the Agreement;

“**Referring Facility**” means the Facility from which it is proposed to transfer a person in accordance with Part 6 of the Agreement;

“**South Australian Act**” means the *Mental Health Act 1993 (SA)*<sup>2</sup>, including any Regulations and orders made under that Act (but for the purposes of the Agreement a reference to the South Australian Act does not, unless expressly provided, include a reference to the New South Wales Act on the basis that the New South Wales Act has been declared a corresponding law under that Act);

“**South Australian Department of Health**” means the Department of that name established pursuant to s7 of the *Public Sector Management Act 1995 (SA)* and, in the event that the name of the Department of Health is changed pursuant to that Act, the Department by its new name;

“**South Australian Regulations**” means Regulations made pursuant to the South Australian Act.

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<sup>2</sup> The *Mental Health Act 2009* will be proclaimed on 1 July 2010 and will replace the *Mental Health Act 1993*.

## **4 Agreed Principles**

These Guidelines are to be interpreted in a manner that is consistent with the following principles to ensure, as far as practicable, each person receives appropriate care and treatment for their mental illness, regardless of their State of origin.

### **4.1 Principle 1: Cooperation**

Services should work with the relevant services in the other State to foster positive professional relationships that facilitate the treatment and care of people with a mental illness, protect their rights and promote their safety.

### **4.2 Principle 2: Least possible restrictive practices**

People taking action without a person's consent must attempt to keep to a minimum the restrictions they impose on the person's liberty by ensuring such restrictions can be demonstrably justified. This means there must be a clear rationale behind the actions and decisions that led to the restriction being imposed.

### **4.3 Principle 3: Respect**

People making decisions about a person's treatment and care must recognise and respect the diverse needs, values and circumstances of each person, including their race, religion, culture, gender, age, sexual orientation and any disability. There must be no unlawful discrimination.

### **4.4 Principle 4: Participation**

Persons must be given the opportunity to be involved, as far as is practicable, in their treatment and care. Unless the person objects, the wishes of any guardian, family member or primary carer who is involved in providing ongoing care or support to the person should also be taken into account.

### **4.5 Principle 5: Privacy and confidentiality**

Information should only be disclosed if it is reasonably necessary or required for a person's treatment and care, transport or apprehension. All information must be treated in accordance with the legislation and policy relating to privacy or confidentiality that is in force in the relevant State.

## **5 Referrals, Triage and Assessment**

### ***General Principles***

- 5.1 Ideally, a person who may require treatment should be assessed in the State in which they are usually resident by a Facility, service (eg community

mental health service or emergency department) or a medical practitioner, rather than be referred to an interstate Facility or service for assessment.

- 5.2 If a person is assessed by a Facility or service in the State in which they are usually resident as requiring admission for inpatient treatment, that service should make arrangements with the closest appropriate Facility (see part 6 of these Guidelines).
- 5.3 A person who telephones a Facility or service in another State seeking assistance should receive a screening assessment to determine a service response:
- if the person requires non-admitted treatment they should be referred to a Facility or service in the State in which they are usually resident; or
  - if the person requires admission for inpatient treatment, the service contacted by the person should make arrangements for assessment and admission to the closest appropriate Facility (see Part 6 of these Guidelines).
- 5.4 If a private Medical Practitioner assesses a person as requiring specialist treatment, the practitioner should liaise with the appropriate Facility or service in the State in which the person is usually resident. That service should determine the appropriate treatment to be provided to the person and, if inpatient admission is required, make arrangements with the closest appropriate Facility (see Part 6 of these Guidelines).
- 5.5 Police and health professionals seeking to arrange an assessment of a person ideally should liaise with Facilities and services in the State in which the person is usually resident.

### ***Procedure***

- 5.6 A person who presents to an interstate Facility or service seeking assistance should receive a screening assessment to determine a service response. Having regard to the person's mental state, that service should determine whether to:
- refer the person to a Facility or a service in the State in which they are usually resident; or
  - provide initial non-admitted treatment before transferring the care of the person to a Facility or service in the State in which they are usually resident; or
  - make arrangements with the closest appropriate Facility if the person requires immediate inpatient treatment (see Part 6 of these Guidelines).
- 5.7 It is not expected that a person will receive non-admitted services on a continuing basis from an interstate Facility or service (except if the person

remains interstate and/or in accordance with a local protocol and/or by the written agreement between the Contact Officers of the New South Wales Department of Health and the South Australian Department of Health).

## **6 Involuntary Admission to Interstate Facilities**

A person subject to a certificate under s19 of the New South Wales Act indicating that the person is a “mentally ill person” or a “mentally disordered person”, or a person apprehended by a New South Wales Police Officer in accordance with s21 of the New South Wales Act may be admitted and detained in a South Australian Facility.

A person to whom an order for admission and detention under s12 of the South Australian Act applies, or who has been apprehended under s23 of the South Australian Act by a police officer, may be admitted to and detained in a New South Wales Facility.

### ***General Principles***

- 6.1 The assessment of an Interstate Person for admission for inpatient treatment should follow the Agreed Principles at Part 4 of the Guidelines and the General Principles at ‘Referrals, Triage and Assessment’ at Part 5 of the Guidelines.
- 6.2 An Interstate Person should only be referred or transported to an interstate Facility for admission if:
  - it is the closest appropriate Facility in either State to the Interstate Person’s usual place of residence (if known) or the place of assessment (if more appropriate); and
  - it has been contacted and has confirmed arrangements for the admission can be made; and
  - it has an available bed, or can reasonably make a bed available.
- 6.3 If no bed can be made available at the closest appropriate Facility, then the Facility in the State in which the Interstate Person is usually resident should be contacted to arrange admission at the next closest appropriate Facility that has an available bed.
- 6.4 Where the Facilities are of similar distances to the Interstate Person’s usual place of residence, unless the interstate Facility is better equipped to meet their needs, the Interstate Person should be transferred to the Facility in the State in which they are usually resident.

- 6.5 If an Interstate Person is admitted to an interstate Facility and there is a Facility in the State in which they are usually resident, which is closer to their place of residence, or that is better equipped to meet their needs (eg a child and adolescent unit for a child or a young person requiring admission) the Interstate Person should be transferred to that Facility as soon as a bed becomes available and the transfer is appropriate and has been agreed to by the persons in charge of the Referring Facility and the Receiving Facility.
- 6.6 On request, the Facility that is closer to the Interstate Person's usual place of residence or that is better equipped to meet their needs should make a bed available if reasonably practicable.

### ***Procedure***

- 6.7 A New South Wales Interstate Person who is taken to a South Australian Facility for admission and treatment shall thereafter be dealt with as if they were a person to whom Division 2 of Part 3 of the South Australian Act applies.
- 6.8 A South Australian Interstate Person who is taken to a New South Wales Facility for admission and treatment shall thereafter be dealt with as if they were a person to whom Part 2 of Chapter 3 of the New South Wales Act applies.
- 6.9 Once admitted, the 'Planned Transfer of Interstate Persons *General Principles*' apply (see Part 7 of these Guidelines).

## **7 Planned Transfer of Interstate Persons**

### ***General Principles***

- 7.1 In assessing whether the proposed transfer will be of benefit to the Interstate Person or necessary for their treatment, regard shall be had to:
- (a) the wishes of the Interstate Person, as far as they can be ascertained;
  - (b) unless the Interstate Person objects, the wishes of any guardian, family member or primary carer who is involved in providing ongoing care or support to the person;
  - (c) the likely effect of the transfer on the Interstate Person, including their ability to maintain family relationships and cultural and kinship ties;
  - (d) whether the treatment to be carried out is only to promote and maintain the Interstate Person's health or well-being;
  - (e) any beneficial alternative treatments available; and
  - (f) the nature and degree of any significant risks associated with treatment or any alternative treatment.

- 7.2 Transfer arrangements and procedures should be commenced as soon as practicable so that the Interstate Person can be transferred when appropriate.
- 7.3 An Interstate Person who is being returned to the State in which they are usually resident must be taken to the closest appropriate Facility that can admit them. The person must not be taken to any other location unless this is required for immediate treatment (for example, a hospital emergency department which is not part of a Facility).

### ***Procedure***

- 7.4 A Facility may request the transfer of an Interstate Person to a Facility in the other State if:
- with respect to New South Wales, the Interstate Person is an Involuntary Patient as defined in these Guidelines;
  - with respect to South Australia, the Interstate Person is a Patient as defined in these Guidelines;
  - the person would continue to satisfy the criteria for involuntary treatment at the Referring Facility; and
  - the medical superintendent in the New South Wales Facility or the Director of the South Australian Facility is satisfied that the transfer will be of benefit to the person or is necessary for their treatment.

### 7.5 Request to Transfer

The Referring Facility will consult the proposed Receiving Facility about the Interstate Person and provide a completed Civil Interstate Transfer Request Notice set out in Schedule 3 to the Agreement, signed by the Director of the Facility in South Australia or the medical superintendent of the New South Wales Facility.

### 7.6 Approval of Receiving Facility

The Receiving Facility must approve the proposed transfer, by signing and returning the Civil Interstate Transfer Request Notice. Approval is provided by the medical superintendent of the Receiving Facility (for transfers from South Australia to New South Wales) and by the Director of the Receiving Facility (for transfers from New South Wales to South Australia).

### 7.7 Interstate Transfer Order (New South Wales only)

In New South Wales the Referring Facility will prepare a written Interstate Transfer Order. The medical superintendent of the Referring Facility makes the order and will forward a copy to the South Australian Receiving Facility.

## 7.8 Request for Approval for Transfer to an Interstate Treatment Centre (South Australia only)

In South Australia the Referring Facility will prepare a 'Request for Approval for Transfer to an Interstate Treatment Centre'. The Director of the Referring Facility completes the form and, once approved, the Facility will forward a copy to the New South Wales Receiving Facility.<sup>3</sup>

## 7.9 Interstate Person information and transport

A New South Wales Interstate Transfer Order or a South Australian Request for Approval for Transfer to an Interstate Treatment Centre will be accompanied by only such other information relating to the Interstate Person as is reasonably necessary or required for their continued care and treatment by the Receiving Facility. The Referring Facility also arranges the transport of the person in consultation with the Receiving Facility (see Part 10 of these Guidelines).

## 7.10 Effect of transfer

When an Interstate Person is admitted to a New South Wales Facility, they shall be dealt with as if they were an Involuntary Patient to whom the New South Wales Act applies and they cease to be a person to whom the South Australian Act applies. When an Interstate Person is admitted to a South Australian Facility, they shall be dealt with as if they were a Patient to whom the South Australian Act applies and they cease to be a person to whom the New South Wales Act applies.

# 8 Transfer of Treatment and Care on Discharge from Inpatient Care

8.1 The assessment and referral of Interstate Persons for treatment and care following discharge from inpatient care should follow the 'Referrals, Triage and Assessment' Principles in Part 5 of these Guidelines.

8.2 A Facility that provides a service to an Interstate Person should make arrangements prior to discharge for the transfer of treatment and care to an appropriate Facility or service in the other State.

8.3 The Referring Facility should contact the appropriate Facility or service in the other State to arrange the transfer of the Interstate Person's post-discharge care. The Referring Facility is responsible for ensuring the person is successfully linked with services in the other State before closing the case.

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<sup>3</sup> From 1 July 2010, the South Australian Chief Psychiatrist must approve the proposed transfer of a Patient who has been admitted to a Facility in South Australia.

- 8.4 Upon the transfer of care, the receiving clinician is responsible for ensuring the Interstate Person is followed up to ensure subsequent service provision to the person and continuity of care.

## **9 Interstate Apprehension of Persons Absent Without Leave**

### ***General Principles***

- 9.1 The Facility from which an Interstate Person is absent without leave will liaise with Police and any relevant services in the other State regarding the return of the person, unless the Facility is able to locate and return the person without assistance.
- 9.2 Where a Civil Interstate Apprehension Order is issued pursuant to the Agreement, the person issuing the Order will consult with the authorities/person(s) requested to apprehend the Interstate Person, and provide copies of the Order as appropriate.
- 9.3 Once the Interstate Person is apprehended, the Facility from which they are absent without leave is responsible for arranging their return and meeting transport costs, unless otherwise agreed on a case-by-case basis between the Contact Officers of South Australia and New South Wales. Where there is Police involvement, it falls within ordinary operational activity and will not attract a fee for service.
- 9.4 Police should only be asked to apprehend an Interstate Person in exceptional circumstances. It may be necessary where the person's behaviour poses a serious threat to the health and safety of themselves or others.
- 9.5 Persons authorised to apprehend the Interstate Person and the Facility issuing the Civil Interstate Apprehension Order should cooperate to ensure the apprehension and return of the person to the Facility specified in the Civil Interstate Apprehension Order promotes continuity of care and keeps interference with the person's rights to a minimum.

### ***Procedure for Interstate Apprehension of Interstate Persons Absent Without Leave***

- 9.6 Part 7 of the Agreement provides for the apprehension and return of Interstate Persons absent without leave.
- 9.7 Where a South Australian Interstate Person is apprehended in New South Wales by Police under s186 of the New South Wales Act, the person should

be taken to the closest appropriate Facility in either State or may be transferred into the custody of a South Australia Police officer. If the person requires inpatient admission, they may be admitted (see Part 6 of these Guidelines).

- 9.8 Where a New South Wales Interstate Person is apprehended in South Australia by Police under s23 of the South Australian Act, the person should be taken to the closest appropriate Facility in either State or may be transferred into the custody of a New South Wales Police officer. If the person requires inpatient admission, they may be admitted (see Part 6 of these Guidelines).

9.9 Completing the Civil Interstate Apprehension Order Form

A Civil Interstate Apprehension Order must be in the form of Schedule 2 to the Agreement and be signed off by the authorised person. Facilities completing a Civil Interstate Apprehension Order must complete the section on the risk an Interstate Person may pose to self or others based on the information available at the date of the last assessment and most recent contact. This section of the form must not be left blank.

The risk categories are:

- High risk (approach with caution)
- Medium risk (poses physical threat)
- Low risk

Where appropriate, further notes should be included about the risk posed by the Interstate Person to self or others in the free text section of the form.

- 9.10 A Civil Interstate Apprehension Order may be signed by:
- the Director of the South Australian Facility from which the Interstate Person absconded or the Director of Mental Health Operations in South Australia; or
  - the authorised medical officer of the New South Wales Facility from which the Interstate Person absconded or the Chief Psychiatrist.
- 9.11 The Facility issuing the Civil Interstate Apprehension Order must determine the most appropriate person(s) to apprehend the Interstate Person. The individual circumstances of the Interstate Person need to be considered in determining the most appropriate person(s) to apprehend them. This includes a consideration of the following factors:
- What course of action would maximise the treatment and care of the Interstate Person?
  - What course of action would be least restrictive of their liberty?

Refer to Part 7.8 of the Agreement for a list of persons authorised to apprehend and take the Interstate Person to a Facility.

Where practicable the Facility should give prior notice to the person(s) nominated to apprehend the Interstate Person in the Civil Interstate Apprehension Order before issuing the Civil Interstate Apprehension Order. The Facility must provide copies to the person(s) nominated to apprehend the Interstate Person in the Civil Interstate Apprehension Order. Copies of the Order must only be supplied to those person(s) nominated as the most appropriate to apprehend the Interstate Person.

Where Police are nominated to apprehend the Interstate Person a different process applies. This is set out below at part 9.12.

#### 9.12 Nominating Police to Apprehend the Interstate Person

Police should only be nominated to apprehend the Interstate Person in exceptional circumstances. Police involvement may be necessary where there is a significant risk of harm to the person or to others.

It should always be borne in mind that the involvement of Police can give the impression that the Interstate Person is suspected of having committed a crime. This may cause unnecessary distress and anxiety to the person or others concerned.

To request South Australia Police assistance, the interstate service should telephone: (08) 131 444.

To request New South Wales Police assistance, the interstate Facility should contact the Duty Officer Operation Inspector (DOI) – New South Wales Police Force Radio (VKG) (02) 9265 4408.

Where Police are involved the Interstate Person subject to the Civil Interstate Apprehension Order remains in Police custody until there is a transfer of responsibility to the specified inpatient Facility (however, see also 9.14).

#### 9.13 Apprehending the Interstate Person

Only the person(s) nominated to apprehend the Interstate Person in the Civil Interstate Apprehension Order should apprehend the Interstate Person. The person(s) nominated to apprehend should have a copy of the Civil Interstate Apprehension Order and at the time of apprehension must inform the Interstate Person of the reasons for their apprehension.

#### 9.14 Where should the Interstate Person be taken after apprehension?

If it is not reasonably practicable to return the Interstate Person to the Facility specified in the Civil Interstate Apprehension Order, the person may be taken to another Facility pending their return to the specified Facility. In such cases the Interstate Person should preferably be taken to a Facility in the State from which they absconded, being:

- A New South Wales Facility (subject to consultation with the medical superintendent); or
- A South Australian Facility (subject to consultation with the Director of the Facility).

Where an Interstate Person has been taken to another Facility pending their return to the specified Facility, the Facility specified in the Civil Interstate Apprehension Order must make arrangements for their return to the specified Facility in consultation with the Facility currently providing treatment and care to the Interstate Person. The timing of the transfer should be determined by negotiation between the responsible clinicians of the relevant facilities having regard to the Interstate Person's health and wellbeing.

#### 9.15 Notification Process after the Interstate Person has been apprehended

Once the Facility that issued the Civil Interstate Apprehension Order is notified that the Interstate Person has been apprehended, they have 24 hours to notify in writing any other person(s) nominated to apprehend that the Order has been executed.

#### 9.16 Revocation of an Unexecuted Civil Interstate Apprehension Order

If a Civil Interstate Apprehension Order has been issued and there is no longer a requirement for the Interstate Person's apprehension, the Facility from which the Interstate Person absconded must revoke the unexecuted Civil Interstate Apprehension Order within 24 hours and notify in writing all person(s) nominated to apprehend the Interstate Person that the Civil Interstate Apprehension Order has been revoked.

#### 9.17 Emergency Civil Interstate Apprehension Order procedure

In an emergency, a Facility may make a verbal, or written, including email, request for the apprehension of an Interstate Person absent without leave, without issuing a Civil Interstate Apprehension Order.

- The written (including via email), or verbal request must outline the nature of the emergency, being a situation where a 24 hour delay would place the Interstate Person's health or safety at risk or place members

- of the public at risk (through deterioration of the Interstate Person's physical or mental condition or otherwise); and
- A Civil Interstate Apprehension Order must be provided within 24 hours of the initial request for apprehension.

Before using the Emergency Civil Interstate Apprehension Order procedure to apprehend an Interstate Person, further advice should be sought from the relevant State's Contact, as set out in Schedule 1 to the Agreement.

Careful consideration should be given to the use of the Emergency Civil Interstate Apprehension Order procedure and it should only be used as an option of last resort.

## **10 Transport**

### ***General Principles***

- 10.1 The Agreement sets out at Parts 5.6 and 6.11 a list of the services and officers who are authorised by law to transport Interstate Persons between New South Wales and South Australia for the purpose of Part 5 and 6 of the Agreement.<sup>4</sup> These Guidelines recognise, however, that a decision about which service/officer should provide transport in any particular case will vary, and will be determined at a local level having regard to the principles in this Part.
- 10.2 Transportation for Interstate Persons should be provided using the least restrictive means possible and in a manner that ensures the safety of the Interstate Person and others, and minimises interference with the person's privacy, dignity and self-respect.
- 10.3 Determining the appropriate person to apprehend or transport an Interstate Person and the most appropriate mode of transport are clinical decisions based on an assessment of:
- the Interstate Person's physical and mental state;
  - the Interstate Person's immediate treatment needs;
  - the risk of harm the Interstate Person poses to self and others;
  - the distance to be travelled;
  - the Interstate Person's need for clinical support and supervision during the period of travel;
  - the availability of authorised persons and transport vehicles; and
  - the likely effect on the Interstate Person of the proposed mode of transport.

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<sup>4</sup> Part 7.8 of the Agreement deals with persons who are authorised to transport Interstate Persons who are absent without leave from a Facility.

- 10.4 Where practicable, transport decisions should be made by a mental health professional in consultation with the Interstate Person and take into account their wishes, as far as can be ascertained.
- 10.5 Consideration of the factors outlined in parts 10.2 - 10.4 may mean it is appropriate to defer transport of an Interstate Person, in order to provide treatment to stabilise their condition.
- 10.6 Where appropriate, transport of an Interstate Person shall be by ambulance. However, Ambulance resources may be limited and in non-urgent cases other forms of transport, such as a health service vehicle, must be considered before a request for an ambulance is made.
- 10.7 The options for transport may include:
- health service vehicle driven by a mental health professional accompanied by an escort;
  - Ambulance (including Air Ambulance, with or without mental health /Police escort); or
  - Police vehicle.<sup>5</sup>
- 10.8 Where an Interstate Person cannot be safely transported by any other means, it may be necessary to call for:
- an ambulance (with or without an officer to accompany a person being transported in the ambulance); and/or
  - Police assistance if, based on a safety risk assessment, there is a current or imminent serious threat to the safety of the person, others, or property. Police assistance is an option of last resort.
- 10.9 An ambulance must be used where an Interstate Person has an urgent need for medical treatment for a physical or mental illness or where the person has been sedated and/or intubated for the purpose of safe transport to a Facility.

### ***Procedure***

- 10.10 The following persons are authorised to transport an Interstate Person for the purposes of Parts 5 and 6 of the Agreement:
- the medical superintendent of a New South Wales Facility or any other suitably qualified person authorised to do so by the medical superintendent;
  - a New South Wales Police Force Officer;
  - a New South Wales Ambulance Officer;

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<sup>5</sup> In South Australia, police officers are not involved in inter-Facility transport of Patients after admission. In New South Wales, Police Force vehicles are not used in inter-Facility transports.

- the Director of a South Australian Facility;
- an employee of a South Australian Facility authorised by the Director for the purpose;
- a South Australia Police Officer<sup>6</sup>;
- a South Australia Ambulance Officer (when summoned by a person exercising powers under the *Mental Health Act 1993*).

## 10.11 Mode of Transport

### 1. Commercial flights

Where an Interstate Person is to be transported by a commercial airline, the Facility responsible for arranging transport may only disclose to the airline such information relating to the person as is reasonably necessary or required for their safe transport.

### 2. Ambulance

- Ambulance transport of Interstate Persons shall be pursuant to the existing arrangements between the New South Wales Department of Health and New South Wales Ambulance services where transport is by New South Wales Ambulance Services and in accordance with the South Australian Health and Ambulance Service policies and protocols, where transport is by South Australian Ambulance Services.
- The costs of Ambulance transport, pursuant to the Agreement between New South Wales and South Australia, to return an Interstate Person to the State in which they are usually resident will be met by the receiving Facility, unless otherwise agreed on a case-by-case basis between the Contact Officers of New South Wales and South Australia.
- The costs of Ambulance transport for an Interstate Person transported from the community in one State to a Facility in the other State for involuntary admission will be met by the Ambulance service in the State in which the person is usually resident, unless otherwise agreed on a case-by-case basis between the Contact Officers of South Australia and New South Wales.
- Where the transfer does not return the Interstate Person to the other State, responsibility for the costs of transport will be negotiated by agreement between the two Facilities. Responsibility for such costs should be agreed prior to the person being transported.

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<sup>6</sup> As above.

### 3. Police

- South Australia Police officers are not involved in inter-Facility transport of Patients after admission. In accordance with the Mental Health and Emergency Services Memorandum of Understanding 2006,<sup>7</sup> South Australia Police officers will only provide transport where there is a significant risk of harm to the Patient or others.
- In New South Wales, transport by New South Wales Police will be in accordance with the Memorandum of Understanding for Mental Health 2007.<sup>8</sup> New South Wales Police Force Vehicles are not used in inter-Facility transports.
- Where Police assistance is requested for transport to an interstate Facility or service, Facility or service staff must take all reasonable steps to expedite the management of the situation so that Police resources will not be further required following the transport.

#### 10.12 The Use of Escorts

The need for an escort (clinical or security) for safe transport is a clinical decision made with regard to the criteria set out in part 10.3.

- Clinical escorts may be requested by a Facility or service, the Police or Ambulance services for an Interstate Person's safe transport. If requested by Police or Ambulance services, the Facility or service requesting Police/Ambulance assistance will be responsible for arranging an escort. In the event the Facility or service is unable to provide a clinical escort, they are required to take reasonable action to obtain a clinical escort from another Facility or service.
- The cost of providing a clinical escort will be met by the Facility responsible for transport costs, unless otherwise agreed by the Facilities or services involved in the Interstate Person's treatment and care.
- Police escorts - Police involvement in any aspect of transport should be an option of last resort. However in some circumstances, Police assistance may be required to enable Ambulance or mental health professionals to transport an Interstate Person safely. Police assistance may be requested by either a mental health professional or an Ambulance paramedic.

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<sup>7</sup> The Mental Health and Emergency Services MOU is being revised (by 1 July 2010)

<sup>8</sup> The NSW Memorandum of Understanding for Mental Health 2007 is being revised (by December 2010)

## **11 Amendment of the Guidelines**

- 11.1 Pursuant to the Agreement, amendment to these Guidelines may only be by written agreement of the Director, Mental Health and Drug and Alcohol Programs, New South Wales Department of Health, New South Wales and the Director Mental Health Operations, Department of Health, South Australia.

## **12 Counterparts**

- 12.1 These Guidelines may be executed in any number of counterparts each of which shall be deemed an original but all of which shall constitute one and the same instrument

## **Schedule 1**

### **Contacts**

#### **For New South Wales**

Director

Mental Health and Drug and Alcohol Programs (or his/her delegate)

New South Wales Department of Health

73 Miller Street NORTH SYDNEY

New South Wales

Tel: (02) 9391 9262

Email: [David.McGrath@doh.health.nsw.gov.au](mailto:David.McGrath@doh.health.nsw.gov.au)

Fax: (02) 9391 9041

#### **For South Australia**

Director Mental Health Operations (or his/her delegate)

Mental Health Unit

Department of Health

ADELAIDE

South Australia

Tel: (08) 8226 6286

Email: [derek.wright@health.sa.gov.au](mailto:derek.wright@health.sa.gov.au)

Fax: (08) 8226 6235