

1. The planned interstate transfer of a patients (known as involuntary patients in Victoria and involuntary patients in New South Wales) is governed by Part 7 of the Ministerial Agreement between the two States and sections 93G and H of the *Mental Health Act 1986* (Vic) and sections 174 – 180 of the *Mental Health Act 2007* (NSW).

The *Mental Health Act 1986* (Vic) and the *Mental Health Regulations 2008* (Vic) may be accessed at <http://www.legislation.vic.gov.au>

The *Mental Health Act 2007* (NSW) and the *Mental Health Regulation 2007* (NSW) may be accessed at <http://www.legislation.nsw.gov.au>

The Ministerial Agreement may be accessed at http://www.health.vic.gov.au/mentalhealth/crossborder/1_civil_agree.pdf or <http://www.health.nsw.gov.au/aboutus/legal/agreements.asp>

2. The planned transfer of a patient **from Victoria to NSW** under section 93G of the *Mental Health Act 1986* (Vic) may occur by order of the authorised psychiatrist of the treating Victorian approved mental health service or the Victorian Chief Psychiatrist. Refer to Victorian Mental Health Act form 36 for the form of the order. The form of interstate transfer order may be accessed at: <http://www.health.vic.gov.au/mentalhealth/mh-act/forms07/mha36-transfer.pdf>

The planned transfer of a patient **from NSW to Victoria** under section 176 of the *Mental Health Act 2007* (NSW) and regulation 29 of the *Mental Health Regulation 2007* (NSW) may occur at the request of the medical superintendent of the treating NSW declared mental health facility. The form of interstate transfer order may be accessed at: http://www.health.nsw.gov.au/resources/aboutus/legal/interstate_transfer_order_pdf.asp

3. The planned transfer of a patient **from Victoria to NSW** under section 93G of the *Mental Health Act 1986* (Vic) requires the Victorian Mental Health Review Board to confirm the transfer order. The Board may only confirm the proposed transfer if they consider either it would be of **benefit to the patient** or it is **necessary for the patient's treatment**.

4. **PERSONS AUTHORISED TO TRANSFER A PERSON IN ACCORDANCE WITH THE CIVIL INTERSTATE TRANSFER REQUEST NOTICE**

The following are authorised to transfer a person:

- The Medical Superintendent of a declared mental health facility in NSW or a person authorised by the Medical Superintendent;
- A NSW police officer;
- A NSW ambulance officer;
- A prescribed person within the meaning of s7 of the Victorian Act and regulation 5(2) of the *Mental Health Regulations 2008* (Vic) (including a member of the Victorian police force and a Victorian ambulance officer);
- An authorised psychiatrist for the purposes of the Victorian Act or any person authorised by the authorised psychiatrist; or
- An employee of the Victorian Department of Health authorised by the Victorian Chief Psychiatrist.

5. The planned interstate transfer of a patient can only occur with the prior consent of the receiving facility or service. This form notifies the interstate facility/service and seeks their consent to the proposed transfer. Consent should be in writing, endorsed on this Notice.

Transfers into NSW must be approved by the Medical Superintendent of the receiving NSW facility. Approval should be sought in accordance with s176(4) of the *Mental Health Act 2007* (NSW) and regulation 31(2) of the *Mental Health Regulation 2007* (NSW).

Transfers into Victoria must be approved by the Authorised Psychiatrist of the receiving Victorian approved mental health service and must be in accordance with s 93H *Mental Health Act 1986* (Vic).