



Health

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Legal & Regulatory Services Branch

PUBLIC HEALTH DELEGATIONS MANUAL

Secretary Delegations

Amendment 109(03/02/20)

Chapter 9 - Miscellaneous Acts

Chapter 10 - Mental Health Act

- Amend delegations in the Mental Health Act Chapter to update executive position titles
- Amend delegation PH218 to update references to the Mental Health Regulation 2019
- Amend delegation PH566 under the Child Protection (Offenders Registration) Act 2000 to add the Executive Director Mental Health as a delegate

REPLACED PAGE(S)
9.15 and 9.15a All pages in Chapter 10

Attached are copies of updated pages incorporated in the current Public Health Delegations Manual.

Manuals are available on the Internet at

<http://www.health.nsw.gov.au/policies/manuals/Pages/default.aspx>

If you require details of any past amendment please email MOH_CGRM@health.nsw.gov.au

CHILD PROTECTION (OFFENDERS REGISTRATION) ACT 2000

1. Power to give written notice to a registrable person of the person's reporting obligations and consequences that may arise if the person fails to comply with those obligations:
 - (a) after a registrable person is sentenced for a registrable offence;
 - (b) at the commencement of a supervised sentence for a registrable offence;
 - (c) when a registrable person ceases to be in government custody.
2. When required to give a statutory notice to a forensic patient who is a registrable person, form an opinion:
 - (a) that the forensic patient is incapable of understanding a statutory notice.
 - (b) that the forensic patient referred to in 2(a) is now capable of understanding a statutory notice.
3. When required to give a statutory notice to a registrable person, form an opinion that the person is a child, or has a special need and is incapable of understanding a statutory notice.

Conditions:

A delegate must, in respect to:

Point 1(c) give written notice to the Commissioner of Police when a registrable person ceases to be in government custody, under supervision or subject to a supervised sentence

Point 2(a) keep a record of the formed opinion.

Point 2(b) ensure a copy of the statutory notice is again given to the forensic patient.

Point 3 take reasonably practicable measures to assist a registrable person to understand their reporting obligations and consequences of failure to comply with these obligations. Keep a record of any measures taken. Inform the Commissioner of Police of the opinion formed, reasons for the opinion and measures taken.

Refer Sections 4, 5 and 6 Child Protection (Offenders Registration) Act 2000.

Clauses 13 and 15 Child Protection (Offenders Registration) Regulation 2015

Authority for this delegation comes from the Secretary under section 21 of the Health Administration Act 1982.

DELEGATES:

DEPUTY SECRETARY HEALTH SYSTEM STRATEGY AND PLANNING

EXECUTIVE DIRECTOR MENTAL HEALTH

CHIEF EXECUTIVE JUSTICE HEALTH AND FORENSIC MENTAL HEALTH NETWORK

EXECUTIVE DIRECTOR CLINICAL OPERATIONS (JUSTICE HEALTH AND FORENSIC MENTAL HEALTH NETWORK)

DIRECTOR MENTAL HEALTH SERVICE LOCAL HEALTH DISTRICT

CO-DIRECTOR FORENSIC MENTAL HEALTH (OPERATIONS) (JUSTICE HEALTH AND FORENSIC MENTAL HEALTH NETWORK)

CO-DIRECTOR FORENSIC MENTAL HEALTH (CLINICAL) (JUSTICE HEALTH AND FORENSIC MENTAL HEALTH NETWORK)

CO-DIRECTOR SERVICES AND PROGRAMS (OPERATIONS) (JUSTICE HEALTH AND FORENSIC MENTAL HEALTH NETWORK)

CO-DIRECTOR SERVICES AND PROGRAMS (CLINICAL) (JUSTICE HEALTH AND FORENSIC MENTAL HEALTH NETWORK)

SERVICE DIRECTOR CUSTODIAL MENTAL HEALTH (JUSTICE HEALTH AND FORENSIC MENTAL HEALTH NETWORK)

SERVICE DIRECTOR COURTS AND COMMUNITY MENTAL HEALTH (JUSTICE HEALTH AND FORENSIC MENTAL HEALTH NETWORK)

DIRECTOR OF NURSING AND SERVICES FORENSIC HOSPITAL

MANAGER ADOLESCENT MENTAL HEALTH AND DRUG AND ALCOHOL PROGRAMS

MEDICAL SUPERINTENDENT DECLARED MENTAL HEALTH FACILITY

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AMBULANCE OFFICERS

Power to authorise a member of the NSW Health Service to exercise the functions of an ambulance officer under the Mental Health Act 2007.

Refer Section 4(1) Mental Health Act 2007. (DG)

Authority for this delegation comes from the Secretary under section 21 of the Health Administration Act 1982.

DELEGATES:

CHIEF EXECUTIVE NSW AMBULANCE

DEPUTY CHIEF EXECUTIVE NSW AMBULANCE

EXECUTIVE DIRECTOR CLINICAL SERVICES NSW AMBULANCE

DIRECTOR EDUCATION NSW AMBULANCE

PATIENT TRANSFER

Power to give an order in writing to transfer a patient or person to or from a mental health facility or another health facility.

Refer section 80(4) Mental Health Act 2007.

Note: Local Health District Directors of Mental Health, the Sydney Children's Hospitals Network Director of Mental Health and the Service Director, Adolescent Health (Justice Health and Forensic Mental Health Network) may only utilise this delegation:

- (1) for transfers between hospitals in their own Local Health District, or between hospitals within the Sydney Children's Hospitals Network (or in the case of the Service Director, Adolescent Health (Justice Health and Forensic Mental Health Network), between hospitals administered by Justice Health and Forensic Mental Health Network); and
- (2) for transfers to a hospital in another Local Health District or the Sydney Children's Hospitals Network or to a hospital administered by Justice Health and Forensic Mental Health Network, where written agreement to the patient transfer has been received from the Local Health District Director of Mental Health or the Sydney Children's Hospitals Network Director of Mental Health of the proposed receiving Local Health District, Sydney Children's Hospitals Network (or where Justice Health and Forensic Mental Health Network is the proposed receiving organisation, from the Service Director, Adolescent Health [Justice Health and Forensic Mental Health Network]).

Authority for this delegation comes from the Secretary under section 21 of the Health Administration Act 1982.

DELEGATES:

DEPUTY SECRETARY HEALTH SYSTEM STRATEGY AND PLANNING

EXECUTIVE DIRECTOR MENTAL HEALTH

DIRECTOR CLINICAL SERVICES AND PROGRAMS

CHIEF PSYCHIATRIST

DIRECTORS OF MENTAL HEALTH LOCAL HEALTH DISTRICTS

SERVICE DIRECTOR ADOLESCENT HEALTH (JUSTICE HEALTH AND FORENSIC MENTAL HEALTH NETWORK)

DIRECTOR MENTAL HEALTH SYDNEY CHILDREN'S HOSPITALS NETWORK

ELECTRO CONVULSIVE THERAPY

Power to approve a place for the purpose of administering electro convulsive therapy.

Power to approve a person to be responsible for a register of electro convulsive therapy treatments to be kept or caused to be kept at such an approved place.

Subject to:

- In respect to the Chief Health Officer and Deputy Secretary, Population and Public Health and the Director Regulation and Compliance, the delegation is only to be exercised in concert with action under the Private Health Facilities Act 2007 in relation to the mental health class licence held under that Act in respect of the same premises, and with no objection to the approval having been raised by the Executive Director, Mental Health.
- In respect to the Deputy Secretary, Health System Strategy and Planning, Executive Director, Mental Health and the Chief Psychiatrist, the delegation is only to be exercised in respect of locations in “public hospitals” as defined in the Health Services Act 1997.

Refer sections 88(2) and 97(2) Mental Health Act 2007.

Authority for this delegation comes from the Secretary under section 21 of the Health Administration Act 1982.

DELEGATES:

CHIEF HEALTH OFFICER AND DEPUTY SECRETARY POPULATION AND PUBLIC HEALTH

DEPUTY SECRETARY HEALTH SYSTEM STRATEGY AND PLANNING

DIRECTOR REGULATION AND COMPLIANCE

EXECUTIVE DIRECTOR MENTAL HEALTH

CHIEF PSYCHIATRIST

ECT REGISTER

Power to inspect electro convulsive therapy register.

Refer section 97(5) Mental Health Act 2007.

Authority for this delegation comes from the Secretary under section 21 of the Health Administration Act 1982.

DELEGATES:

*DEPUTY SECRETARY HEALTH SYSTEM STRATEGY AND PLANNING
EXECUTIVE DIRECTOR MENTAL HEALTH
DIRECTOR CLINICAL SERVICES AND PROGRAMS
CHIEF PSYCHIATRIST*

CONSENT TO EMERGENCY SURGERY

Authority to consent, in writing, to an emergency surgical operation on an involuntary patient or a forensic patient or a correctional patient.

Refer sections 99(1) and (2) Mental Health Act 2007.

Procedures

Delegates should refer to the terms of section 99, which in summary require that:

- for an involuntary patient (other than a forensic patient or correctional patient not suffering from a mental illness)
 - the patient is incapable of giving consent, or is capable but refuses, or neither gives nor refuses that consent; and
 - the surgical operation is necessary to save the patient's life, prevent serious damage to their health, or prevent significant pain or distress to the patient;
- for a forensic patient or correctional patient not suffering from a mental illness
 - the patient is incapable of giving consent; and
 - the surgical operation is necessary to save the patient's life, prevent serious damage to their health, or prevent significant pain or distress to the patient.

Authority for this delegation comes from the Secretary under section 21 of the Health Administration Act 1982.

DELEGATES:

*DEPUTY SECRETARY HEALTH SYSTEM STRATEGY AND PLANNING
EXECUTIVE DIRECTOR MENTAL HEALTH
DIRECTOR PLANNING PERFORMANCE AND REGULATION
CHIEF PSYCHIATRIST*

CONSENT TO SURGERY

Authority on application to consent, in writing, to a surgical operation on an involuntary patient.

Refer section 100(3) Mental Health Act 2007.

Procedures

Subject to the terms of section 100(3), a delegate should be of the opinion that:

- the patient is incapable of giving consent; and
- the surgical operation is desirable, having regard to the interests of the patient;

Authority for this delegation comes from the Secretary under section 21 of the Health Administration Act 1982.

DELEGATES:

*DEPUTY SECRETARY HEALTH SYSTEM STRATEGY AND PLANNING
EXECUTIVE DIRECTOR MENTAL HEALTH
DIRECTOR PLANNING PERFORMANCE AND REGULATION
CHIEF PSYCHIATRIST*

APPOINT MEDICAL SUPERINTENDENTS

Power to appoint Medical Superintendents of declared mental health facilities (other than private mental health facilities)

Refer section 111 Mental Health Act 2007.

Authority for this delegation comes from the Secretary under section 21 of the Health Administration Act 1982.

DELEGATES:

DEPUTY SECRETARY HEALTH SYSTEM STRATEGY AND PLANNING

EXECUTIVE DIRECTOR MENTAL HEALTH

CHIEF EXECUTIVE LOCAL HEALTH DISTRICTS

DIRECTORS OF MENTAL HEALTH LOCAL HEALTH DISTRICTS

CHIEF EXECUTIVE JUSTICE HEALTH AND FORENSIC MENTAL HEALTH NETWORK

EXECUTIVE DIRECTOR CLINICAL OPERATIONS (JUSTICE HEALTH AND FORENSIC MENTAL HEALTH NETWORK)

CO-DIRECTOR FORENSIC MENTAL HEALTH (CLINICAL) (JUSTICE HEALTH AND FORENSIC MENTAL HEALTH NETWORK)

CO-DIRECTOR FORENSIC MENTAL HEALTH (OPERATIONS) (JUSTICE HEALTH AND FORENSIC MENTAL HEALTH NETWORK)

CHIEF EXECUTIVE SYDNEY CHILDREN'S HOSPITALS NETWORK

DIRECTOR MENTAL HEALTH SYDNEY CHILDREN'S HOSPITALS NETWORK

APPOINT DEPUTY MEDICAL SUPERINTENDENT

Power to appoint Deputy Medical Superintendents of declared mental health facilities.

Refer section 112 Mental Health Act 2007.

Authority for this delegation comes from the Secretary under section 21 of the Health Administration Act 1982.

DELEGATES:

DEPUTY SECRETARY HEALTH SYSTEM STRATEGY AND PLANNING

EXECUTIVE DIRECTOR MENTAL HEALTH

CHIEF EXECUTIVE LOCAL HEALTH DISTRICTS

DIRECTORS OF MENTAL HEALTH LOCAL HEALTH DISTRICTS

CHIEF EXECUTIVE JUSTICE HEALTH AND FORENSIC MENTAL HEALTH NETWORK

EXECUTIVE DIRECTOR CLINICAL OPERATIONS (JUSTICE HEALTH AND FORENSIC MENTAL HEALTH NETWORK)

CO-DIRECTOR FORENSIC MENTAL HEALTH (CLINICAL) (JUSTICE HEALTH AND FORENSIC MENTAL HEALTH NETWORK)

CO-DIRECTOR FORENSIC MENTAL HEALTH (OPERATIONS) (JUSTICE HEALTH AND FORENSIC MENTAL HEALTH NETWORK)

CHIEF EXECUTIVE SYDNEY CHILDREN'S HOSPITALS NETWORK

DIRECTOR MENTAL HEALTH SYDNEY CHILDREN'S HOSPITALS NETWORK

APPOINT DIRECTOR OR DEPUTY DIRECTOR

Power to appoint the holder of a specified office as the Director or Deputy Director of community treatment of a mental health facility.

Refer section 113 Mental Health Act 2007.

Authority for this delegation comes from the Secretary under section 21 of the Health Administration Act 1982.

DELEGATES:

DEPUTY SECRETARY HEALTH SYSTEM STRATEGY AND PLANNING

EXECUTIVE DIRECTOR MENTAL HEALTH

CHIEF EXECUTIVE LOCAL HEALTH DISTRICTS

DIRECTORS OF MENTAL HEALTH LOCAL HEALTH DISTRICTS

CHIEF EXECUTIVE JUSTICE HEALTH AND FORENSIC MENTAL HEALTH NETWORK

CHIEF EXECUTIVE SYDNEY CHILDREN'S HOSPITALS NETWORK

DIRECTOR MENTAL HEALTH SYDNEY CHILDREN'S HOSPITALS NETWORK

FORM – APPLICATION FOR LICENCE

Approval of the form of application for a licence to keep premises as a private mental health facility.

Refer sections 115(2)(a) Mental Health Act 2007.

Authority for this delegation comes from the Secretary under section 21 of the Health Administration Act 1982.

DELEGATES:

*DEPUTY SECRETARY GOVERNANCE, WORKFORCE & CORPORATE
EXECUTIVE DIRECTOR LEGAL AND REGULATORY SERVICES AND GENERAL
COUNSEL
DIRECTOR REGULATION AND COMPLIANCE*

ISSUE OR REFUSE LICENCE – PRIVATE MENTAL HEALTH FACILITY**Power to:**

- Issue or refuse an application for a licence for a private mental health facility.
 - On issuing a licence, specify the maximum number of patients to be kept or treated and any other terms and conditions on the licence.
 - Approve the form of a licence to be issued.
-

Subject to:

- the delegation only being exercised where any new facility, change in bed numbers, change in location or change in class(es) has been approved in principle by the Secretary or delegate acting under the Private Health Facilities Act 2007; and
 - no objection to the grant of the licence has been raised by the Deputy Secretary, Health System Strategy and Planning or Executive Director, Mental Health.
-

Refer section 116 Mental Health Act 2007.

Authority for this delegation comes from the Secretary under section 21 of the Health Administration Act 1982.

DELEGATES:

*DEPUTY SECRETARY GOVERNANCE, WORKFORCE & CORPORATE
EXECUTIVE DIRECTOR LEGAL AND REGULATORY SERVICES AND GENERAL
COUNSEL
DIRECTOR REGULATION AND COMPLIANCE*

ANNUAL STATEMENT – PRIVATE MENTAL HEALTH FACILITY

Approval of the form of the annual statement a licensee is to provide.

Refer section 118(a) Mental Health Act 2007.

Authority for this delegation comes from the Secretary under section 21 of the Health Administration Act 1982.

DELEGATES:

*DEPUTY SECRETARY GOVERNANCE, WORKFORCE & CORPORATE
EXECUTIVE DIRECTOR LEGAL AND REGULATORY SERVICES AND GENERAL
COUNSEL
DIRECTOR REGULATION AND COMPLIANCE*

DUPLICATE LICENCE – PRIVATE MENTAL HEALTH FACILITY

Issue of a duplicate licence to the licensee of a private mental health facility.

Refer section 119 Mental Health Act 2007.

Authority for this delegation comes from the Secretary under section 21 of the Health Administration Act 1982.

DELEGATES:

*DEPUTY SECRETARY GOVERNANCE, WORKFORCE & CORPORATE
EXECUTIVE DIRECTOR LEGAL AND REGULATORY SERVICES AND GENERAL
COUNSEL
DIRECTOR REGULATION AND COMPLIANCE*

CANCEL LICENCE – PRIVATE MENTAL HEALTH FACILITY

Cancellation of a licence for a private mental health facility where:

- the licence fee has not been paid by the due date, or
 - the licensee requests the Secretary, in writing, to cancel the licence, or
 - if the premises have ceased to be kept as a hospital for the admission, care and treatment of patients.
-

Subject to:

- the delegation only being exercised in concert with action under the Private Health Facilities Act 2007 in relation to the mental health class licence held under that Act in respect of the same premises.
-

Refer section 120 Mental Health Act 2007.

Authority for this delegation comes from the Secretary under section 21 of the Health Administration Act 1982.

DELEGATES:

*DEPUTY SECRETARY GOVERNANCE, WORKFORCE & CORPORATE
EXECUTIVE DIRECTOR LEGAL AND REGULATORY SERVICES AND GENERAL
COUNSEL
DIRECTOR REGULATION AND COMPLIANCE*

NOTICE TO CANCEL LICENCE – PRIVATE MENTAL HEALTH FACILITY

Issue of a notice in writing requiring the licensee of a private mental health facility to show cause why the licence should not be cancelled, and specification of the time for compliance with the notice; and

Power to cancel such a licence if sufficient cause is not shown by the licensee within the specified time.

Subject to:

- the delegation only being exercised in concert with action under the Private Health Facilities Act 2007 in relation to the mental health class licence held under that Act in respect of the same premises.
-

Refer section 121 Mental Health Act 2007.

Authority for this delegation comes from the Secretary under section 21 of the Health Administration Act 1982.

DELEGATES:

*DEPUTY SECRETARY GOVERNANCE, WORKFORCE & CORPORATE
EXECUTIVE DIRECTOR LEGAL AND REGULATORY SERVICES AND GENERAL
COUNSEL
DIRECTOR REGULATION AND COMPLIANCE*

VARY LICENCE – PRIVATE MENTAL HEALTH FACILITY

Power upon application to vary any term or condition on a private mental health facility licence, or to refuse the application.

Subject to:

- the delegation only being exercised in concert with action under the Private Health Facilities Act 2007 in relation to the mental health class licence held under that Act in respect of the same premises.
-

Refer section 122(2) Mental Health Act 2007.

Authority for this delegation comes from the Secretary under section 21 of the Health Administration Act 1982.

DELEGATES:

*DEPUTY SECRETARY GOVERNANCE, WORKFORCE & CORPORATE
EXECUTIVE DIRECTOR LEGAL AND REGULATORY SERVICES AND GENERAL
COUNSEL
DIRECTOR REGULATION AND COMPLIANCE*

PROVIDE MEDICAL SERVICES – PRIVATE MENTAL HEALTH FACILITY

Approval of arrangements for provision of medical services to patients in a private mental health facility.

Refer section 123 Mental Health Act 2007.

Authority for this delegation comes from the Secretary under section 21 of the Health Administration Act 1982.

DELEGATES:

*DEPUTY SECRETARY HEALTH SYSTEM STRATEGY AND PLANNING
EXECUTIVE DIRECTOR MENTAL HEALTH*

APPOINT MEDICAL SUPERINTENDENT – PRIVATE MENTAL HEALTH FACILITY

Approval of appointment of a medical practitioner as the medical superintendent of a private mental health facility.

Refer section 124(1) Mental Health Act 2007.

Authority for this delegation comes from the Secretary under section 21 of the Health Administration Act 1982.

DELEGATES:

*DEPUTY SECRETARY HEALTH SYSTEM STRATEGY AND PLANNING
EXECUTIVE DIRECTOR MENTAL HEALTH*

RECORDS – PRIVATE MENTAL HEALTH FACILITY

Approval of the particulars of records of admitted patients to be kept and provided to the Secretary.

Refer section 124(2) Mental Health Act 2007.

Authority for this delegation comes from the Minister under section 21 of the Health Administration Act 1982.

DELEGATES:

*DEPUTY SECRETARY GOVERNANCE, WORKFORCE & CORPORATE
EXECUTIVE DIRECTOR LEGAL AND REGULATORY SERVICES AND GENERAL
COUNSEL
DIRECTOR REGULATION AND COMPLIANCE*

APPOINT DEPUTY MEDICAL SUPERINTENDENT – PRIVATE MENTAL HEALTH FACILITY

Approval of appointment of a medical practitioner as the deputy medical superintendent of a private mental health facility.

Refer section 125(2) Mental Health Act 2007.

Authority for this delegation comes from the Secretary under section 21 of the Health Administration Act 1982.

DELEGATES:

*DEPUTY SECRETARY HEALTH SYSTEM STRATEGY AND PLANNING
EXECUTIVE DIRECTOR MENTAL HEALTH*

ACCREDITED PERSON

Power to appoint a person, or the holder of an office, as an accredited person for the purposes of the Mental Health Act 2007, including the imposition of conditions on the exercise of the functions.

Refer section 136 Mental Health Act 2007.

Authority for this delegation comes from the Secretary under section 21 of the Health Administration Act 1982.

DELEGATES:

*DEPUTY SECRETARY HEALTH SYSTEM STRATEGY AND PLANNING
EXECUTIVE DIRECTOR MENTAL HEALTH
DIRECTOR PLANNING PERFORMANCE AND REGULATION*

INSPECTION – MENTAL HEALTH FACILITY

Approve the inspection of a mental health facility.

Approve an ‘authorised officer’ under s124 of the Health Services Act 1997 to visit and inspect a mental health facility.

Refer sections 137(1) and (2) Mental Health Act 2007.

Authority for this delegation comes from the Secretary under section 21 of the Health Administration Act 1982.

DELEGATES:

LEVEL 2

LEVEL 3

DIRECTOR REGULATION AND COMPLIANCE

DIRECTOR CLINICAL SERVICES AND PROGRAMS

DIRECTOR INDUSTRIAL RELATIONS AND WORKFORCE MANAGEMENT

DIRECTOR INDUSTRIAL RELATIONS AND WORKPLACE CHANGE

DIRECTOR INDUSTRIAL RELATIONS AND HUMAN RESOURCES POLICY

FUNCTIONS UNDER CORRESPONDING LAWS

Authorise a person to exercise the functions conferred on the Minister under corresponding law or agreement under Chapter 8 Part 1 of the Mental Health Act 2007.

Refer section 173 Mental Health Act 2007.

Authority for this delegation comes from the Minister under section 21 of the Health Administration Act 1982.

DELEGATES:

SECRETARY

DEPUTY SECRETARY HEALTH SYSTEM STRATEGY AND PLANNING

EXECUTIVE DIRECTOR MENTAL HEALTH

FORMS

Approval of forms for the purposes of the Mental Health Act 2007 (other than prescribed forms under the Act) as considered necessary or convenient for the administration of the Act.

Refer section 194 Mental Health Act 2007. (M)

Authority for this delegation comes from the Minister under section 21 of the Health Administration Act 1982.

DELEGATES:

SECRETARY

PATIENTS FUNDS AND ACCOUNTS

Power to exercise the functions of the Secretary under the provisions of Part 8 of the Mental Health Regulation 2019, being:

- i) the 'responsible person' in relation to a declared mental health facility as defined in clause 31(3) for the purpose of Part 8 under clauses 31(1), 32(1), 32(2), 32(3), 33(1), 33(2), 34, 38(1), 38(2); and
 - ii) the Secretary for the purpose of Part 8 under clauses 31(2), 35(2), 36(2)(b), 37.
-

Subject to compliance at all times with trust fund procedures as issued from time to time and requirements stipulated under the Mental Health Act 2007 and Mental Health Regulation 2019.

Refer Part 8 Mental Health Regulation 2019

Authority for this delegation comes from the Secretary under section 21 of the Health Administration Act 1982.

DELEGATES:

CHIEF EXECUTIVE LOCAL HEALTH DISTRICT, SPECIALTY HEALTH NETWORK

**MINISTER'S FUNCTIONS RELATING TO FORENSIC PATIENTS AND
CORRECTIONAL PATIENTS**

Authority to exercise or perform each of the powers, authorities, duties and functions conferred or imposed on the Minister for Health in relation to sections 46(2), 61(2), 76A(2), 77A(2) and 77A(5) of the Mental Health (Forensic Provisions) Act 1990.

Refer Mental Health (Forensic Provisions) Act 1990. (M)

Authority for this delegation comes from the Minister for Health under section 21 of the Health Administration Act 1982.

DELEGATE:

MINISTER FOR MENTAL HEALTH

CORRECTIONAL PATIENT – TRANSFER TO MENTAL HEALTH FACILITY

Power to order, or revoke an order, that a person imprisoned in a correctional centre who is a mentally ill person, or who is suffering from a mental condition, be transferred to a mental health facility.

Power to make such orders with or without the person's consent, if the delegate is of the view that the person is mentally ill or is suffering from a mental condition for which treatment is available in a mental health facility.

Refer section 55 Mental Health (Forensic Provisions) Act 1990.

Procedures:

Delegates are required to notify the Tribunal in writing of any order or revocation of an order made under section 55. This delegation is subject to the delegates **not being** one of the medical practitioners who complete the certificates in the form set out in Schedule 2 to the Act.

A delegate may not sub-delegate this function.

Authority for this delegation comes from the Secretary under section 21 of the Health Administration Act 1982.

DELEGATES:

DEPUTY SECRETARY HEALTH SYSTEM STRATEGY AND PLANNING

EXECUTIVE DIRECTOR MENTAL HEALTH

DIRECTOR PLANNING PERFORMANCE AND REGULATION

CHIEF PSYCHIATRIST

CHIEF EXECUTIVE JUSTICE HEALTH AND FORENSIC MENTAL HEALTH NETWORK

CO-DIRECTOR FORENSIC MENTAL HEALTH (CLINICAL) (JUSTICE HEALTH AND FORENSIC MENTAL HEALTH NETWORK)

CO-DIRECTOR FORENSIC MENTAL HEALTH (OPERATIONS) (JUSTICE HEALTH AND FORENSIC MENTAL HEALTH NETWORK)

CO-DIRECTOR SERVICES & PROGRAMS (CLINICAL) (JUSTICE HEALTH AND FORENSIC MENTAL HEALTH NETWORK)

CO-DIRECTOR SERVICES & PROGRAMS (OPERATIONS) (JUSTICE HEALTH AND FORENSIC MENTAL HEALTH NETWORK)

EXECUTIVE DIRECTOR CLINICAL OPERATIONS (JUSTICE HEALTH AND FORENSIC MENTAL HEALTH NETWORK)

SERVICE DIRECTOR CUSTODIAL MENTAL HEALTH (JUSTICE HEALTH AND FORENSIC MENTAL HEALTH NETWORK)

CORRECTIONAL PATIENT – RETURN OR REMAIN IN MENTAL HEALTH FACILITY**Power to:**

1. transfer a correctional patient (previously transferred from a correctional centre to a mental health facility) back to a correctional centre at any time; or
 2. determine that such a person may remain in a mental health facility for treatment for more than 7 days.
-

Refer section 56 Mental Health (Forensic Provisions) Act 1990.

Procedures:

- Decisions to transfer correctional patients back to the correctional centre may be made if the delegate is of the opinion that the patient has ceased to be mentally ill or to suffer from a mental condition for which treatment is available in a mental health facility, or that other appropriate care is reasonably available to the patient in the correctional centre.
- Correctional patients must be transferred back to the correctional centre no later than 7 days after transfer, unless the delegate is of the opinion that they are mentally ill or suffer from a mental condition for which treatment is available in a mental health facility and that other appropriate care is not available in the correctional centre.

Authority for this delegation comes from the Secretary under section 21 of the Health Administration Act 1982.

DELEGATES:

DEPUTY SECRETARY HEALTH SYSTEM STRATEGY AND PLANNING

EXECUTIVE DIRECTOR MENTAL HEALTH

DIRECTOR PLANNING PERFORMANCE AND REGULATION

CHIEF PSYCHIATRIST

CHIEF EXECUTIVE JUSTICE HEALTH AND FORENSIC MENTAL HEALTH NETWORK

CO-DIRECTOR FORENSIC MENTAL HEALTH (CLINICAL) (JUSTICE HEALTH AND FORENSIC MENTAL HEALTH NETWORK)

CO-DIRECTOR FORENSIC MENTAL HEALTH (OPERATIONS) (JUSTICE HEALTH AND FORENSIC MENTAL HEALTH NETWORK)

CO-DIRECTOR SERVICES & PROGRAMS (CLINICAL) (JUSTICE HEALTH AND FORENSIC MENTAL HEALTH NETWORK)

CO-DIRECTOR SERVICES & PROGRAMS (OPERATIONS) (JUSTICE HEALTH AND FORENSIC MENTAL HEALTH NETWORK)

EXECUTIVE DIRECTOR CLINICAL OPERATIONS (JUSTICE HEALTH AND FORENSIC MENTAL HEALTH NETWORK)

SERVICE DIRECTOR CUSTODIAL MENTAL HEALTH (JUSTICE HEALTH AND FORENSIC MENTAL HEALTH NETWORK)

LEAVE OF ABSENCE IN AN EMERGENCY OR OTHER SPECIAL CIRCUMSTANCES

Power to approve leave of absence from a mental health facility, with or without conditions:

- (i) of a forensic patient (under section 50); or
- (ii) of a correctional patient (under section 63)

in an emergency, or in other special circumstances as the delegate thinks fit.

Refer section 50 and 63 Mental Health (Forensic Provisions) Act 1990.

Procedures:

Other than in a medical emergency, delegates must be satisfied, on the evidence available to them, that the safety of the forensic or correctional patient or any member of the public will not be seriously endangered if the leave of absence is granted.

For **forensic patients** delegates must not approve leave of absence if the Mental Health Review Tribunal has previously refused such leave in the same or similar circumstances.

For **correctional patients** delegates must not approve leave of absence if the Commissioner of Corrective Services has previously refused such leave in the same or similar circumstances.

***Note:** Medical Superintendents of Declared Mental Health Facilities may only exercise this delegation in cases of **medical** emergency.

Authority for this delegation comes from the Secretary under section 21 of the Health Administration Act 1982.

DELEGATES:

DEPUTY SECRETARY HEALTH SYSTEM STRATEGY AND PLANNING

EXECUTIVE DIRECTOR MENTAL HEALTH

DIRECTOR PLANNING PERFORMANCE AND REGULATION

CHIEF PSYCHIATRIST

CHIEF EXECUTIVE JUSTICE HEALTH AND FORENSIC MENTAL HEALTH NETWORK

CO-DIRECTOR FORENSIC MENTAL HEALTH (CLINICAL) (JUSTICE HEALTH AND FORENSIC MENTAL HEALTH NETWORK)

CO-DIRECTOR FORENSIC MENTAL HEALTH (OPERATIONS) (JUSTICE HEALTH AND FORENSIC MENTAL HEALTH NETWORK)

CO-DIRECTOR SERVICES & PROGRAMS (CLINICAL) (JUSTICE HEALTH AND FORENSIC MENTAL HEALTH NETWORK)

CO-DIRECTOR SERVICES & PROGRAMS (OPERATIONS) (JUSTICE HEALTH AND FORENSIC MENTAL HEALTH NETWORK)

EXECUTIVE DIRECTOR CLINICAL OPERATIONS (JUSTICE HEALTH AND FORENSIC MENTAL HEALTH NETWORK)

SERVICE DIRECTOR CUSTODIAL MENTAL HEALTH (JUSTICE HEALTH AND FORENSIC MENTAL HEALTH NETWORK)

** MEDICAL SUPERINTENDENTS OF DECLARED MENTAL HEALTH FACILITIES*

FORENSIC PATIENT – SECURITY CONDITIONS

Power to determine the security conditions necessary for a detained forensic patient detained in a mental health facility or other place (other than a correctional centre), or a forensic patient absent in accordance with Part 5 of the Act.

Refer section 76D Mental Health (Forensic Provisions) Act 1990.

Authority for this delegation comes from the Secretary under section 21 of the Health Administration Act 1982.

DELEGATES:

DEPUTY SECRETARY HEALTH SYSTEM STRATEGY AND PLANNING

EXECUTIVE DIRECTOR MENTAL HEALTH

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CHIEF PSYCHIATRIST

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SERVICE DIRECTOR CUSTODIAL MENTAL HEALTH (JUSTICE HEALTH AND FORENSIC MENTAL HEALTH NETWORK)

FORENSIC PATIENT – TRANSFER or TRANSPORT

Power to order, in writing, the transfer or transport of a forensic patient or correctional patient detained in a mental health facility to another mental health facility, a correction centre or other place in accordance with an order under Part 5 of the Act.

Power to determine the security conditions for such a transfer of a forensic patient or correctional patient.

Refer sections 76E Mental Health (Forensic Provisions) Act 1990.

Authority for this delegation comes from the Secretary under section 21 of the Health Administration Act 1982.

DELEGATES:

DEPUTY SECRETARY HEALTH SYSTEM STRATEGY AND PLANNING

EXECUTIVE DIRECTOR MENTAL HEALTH

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SERVICE DIRECTOR CUSTODIAL MENTAL HEALTH (JUSTICE HEALTH AND FORENSIC MENTAL HEALTH NETWORK)

MENTAL HEALTH REVIEW TRIBUNAL REVIEW

Authority to request the Mental Health Review Tribunal to review the case of a forensic patient (section 46) or a correctional patient (section 61).

Refer section 46(2) and 61(2) Mental Health (Forensic Provisions) Act 1990.

Authority for this delegation comes from the Secretary under section 21 of the Health Administration Act 1982.

DELEGATES:

DEPUTY SECRETARY HEALTH SYSTEM STRATEGY AND PLANNING

EXECUTIVE DIRECTOR MENTAL HEALTH

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EXECUTIVE DIRECTOR CLINICAL OPERATIONS (JUSTICE HEALTH AND FORENSIC MENTAL HEALTH NETWORK)

RETAKEING OF ESCAPEES

Authority to authorise a person to apprehend a forensic patient or correctional patient who escapes from a mental health facility or other place.

Refer section 70 Mental Health (Forensic Provisions) Act 1990.

Authority for this delegation comes from the Secretary under section 21 of the Health Administration Act 1982.

DELEGATES:

DEPUTY SECRETARY HEALTH SYSTEM STRATEGY AND PLANNING

EXECUTIVE DIRECTOR MENTAL HEALTH

DIRECTOR PLANNING PERFORMANCE AND REGULATION

CHIEF PSYCHIATRIST

CHIEF EXECUTIVE JUSTICE HEALTH AND FORENSIC MENTAL HEALTH NETWORK

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CO-DIRECTOR SERVICES & PROGRAMS (OPERATIONS) (JUSTICE HEALTH AND FORENSIC MENTAL HEALTH NETWORK)

EXECUTIVE DIRECTOR CLINICAL OPERATIONS (JUSTICE HEALTH AND FORENSIC MENTAL HEALTH NETWORK)

REPORT TO THE TRIBUNAL ABOUT PATIENT LEAVE OF ABSENCE DECISIONS

Power to provide a report to the Mental Health Review Tribunal about a patient, including the reasons of the Secretary or delegate to refuse or fail to grant leave of absence to a forensic patient or a correctional patient.

Refer section 76F(3) Mental Health (Forensic Provisions) Act 1990.

Authority for this delegation comes from the Secretary under section 21 of the Health Administration Act 1982.

DELEGATES:

DEPUTY SECRETARY HEALTH SYSTEM STRATEGY AND PLANNING

EXECUTIVE DIRECTOR MENTAL HEALTH

DIRECTOR PLANNING PERFORMANCE AND REGULATION

CHIEF PSYCHIATRIST

CHIEF EXECUTIVE JUSTICE HEALTH AND FORENSIC MENTAL HEALTH NETWORK

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CO-DIRECTOR SERVICES & PROGRAMS (OPERATIONS) (JUSTICE HEALTH AND FORENSIC MENTAL HEALTH NETWORK)

EXECUTIVE DIRECTOR CLINICAL OPERATIONS (JUSTICE HEALTH AND FORENSIC MENTAL HEALTH NETWORK)

REPORT TO THE TRIBUNAL ABOUT DELAY IN TRANSFER

Power to provide a report as to the person's condition and the reason for the delay in transfer to a mental health facility, to the Mental Health Review Tribunal for the purposes of a limited review under section 58.

Refer section 58(4) Mental Health (Forensic Provisions) Act 1990.

Authority for this delegation comes from the Secretary under section 21 of the Health Administration Act 1982.

DELEGATES:

DEPUTY SECRETARY HEALTH SYSTEM STRATEGY AND PLANNING

EXECUTIVE DIRECTOR MENTAL HEALTH

DIRECTOR PLANNING PERFORMANCE AND REGULATION

CHIEF PSYCHIATRIST

CHIEF EXECUTIVE JUSTICE HEALTH AND FORENSIC MENTAL HEALTH NETWORK

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CO-DIRECTOR SERVICES & PROGRAMS (OPERATIONS) (JUSTICE HEALTH AND FORENSIC MENTAL HEALTH NETWORK)

EXECUTIVE DIRECTOR CLINICAL OPERATIONS (JUSTICE HEALTH AND FORENSIC MENTAL HEALTH NETWORK)

SERVICE DIRECTOR CUSTODIAL MENTAL HEALTH (JUSTICE HEALTH AND FORENSIC MENTAL HEALTH NETWORK)

LIMITING TERM PATIENT

Power to, by order in writing served on any person, require that person to provide any document, report or other information in that person's possession, or under that person's control, that relates to the behaviour, or physical or mental condition, of any forensic patient who is subject to a limiting term.

Power to request a court or the Tribunal to provide any document, report or other information held by the court or Tribunal that relates to the behaviour, or physical or mental condition, of any forensic patient who is subject to a limiting term.

Refer clause 17 Schedule 1 Mental Health (Forensic Provisions) Act 1990

Authority for this delegation comes from the Minister for Mental Health under section 77D of the Mental Health (Forensic Provisions) Act 1990.

DELEGATES:

SECRETARY

*DEPUTY SECRETARY GOVERNANCE, WORKFORCE AND CORPORATE
EXECUTIVE DIRECTOR LEGAL AND REGULATORY SERVICES AND GENERAL
COUNSEL*

DEPUTY GENERAL COUNSEL, DIRECTOR LEGAL