



OPERATIONAL CIRCULAR

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Subject: **CHIEF PSYCHIATRIST DELEGATIONS - *THE MENTAL HEALTH ACT 1996***

Authority

The Chief Psychiatrist has responsibilities for psychiatric care under the *Mental Health Act 1996* (MHA) as follows:

The Chief Psychiatrist has responsibility for the medical care and welfare of all involuntary patients (section 9 (1))

In respect of other patients, the Chief Psychiatrist is required to monitor the standards of psychiatric care provided throughout the State (section 9 (2))

The *Health Legislation Administration Act 1984*, s9 empowers the Chief Psychiatrist to delegate responsibility for some powers of authority under the *Mental Health Act 1996*. Such delegation is undertaken with consideration of the capacity and skill of the individuals delegated to and the essential operations for the efficient implementation of the *Mental Health Act 1996*.

The following Delegation applies to:

- 1.0 REVOCATION OF A COMMUNITY TREATMENT ORDER - S65 TO S72, MHA
- 2.0 CONSENT FOR MEDICAL TREATMENT- S110, MHA
- 3.0 OPINION OF ANOTHER PSYCHIATRIST MAY BE REQUESTED- S 111, MHA
- 4.0 TRANSFER OF RESPONSIBILITY, S 112, MHA
- 5.0 ACCESS TO CERTAIN INFORMATION ABOUT A PATIENT- S 205, MHA

1.0 REVOCATION OF A COMMUNITY TREATMENT ORDER - S65 TO S72, MHA

A Community Treatment Order (CTO) enables psychiatric treatment to be provided to a person with mental illness as an involuntary patient living in the community. The Supervising Psychiatrist may revoke a CTO if the patient has become so unwell that he or she needs to be detained in an authorised hospital. If in these circumstances if the Supervising Psychiatrist is not available to revoke the order, the order may be revoked by the Chief Psychiatrist.

The Chief Psychiatrist has delegated this responsibility to those psychiatrists on Table 1. The delegation is limited to the psychiatrist revoking the order and making the person no longer involuntary (Form 8). The patient may then be examined by a medical or authorised mental health practitioner who may decide to refer the person to an authorised hospital for an examination by a psychiatrist.

Delegation: Table 1 lists those psychiatrist positions empowered by the Chief Psychiatrist with the delegated authority to review, and as appropriate to revoke a Community Treatment Order. In circumstances where the incumbents of the positions are not available, this delegation is effective provided that the **psychiatrist on duty** is legitimately performing the functions of the position nominated as the **psychiatrist in charge** of the mental health service. (See Operational Circular 'REVOCATION OF A COMMUNITY TREATMENT ORDER (CTO) MENTAL HEALTH ACT 1996 (ss 68 and 70)' No: OP 2060/06.

2.0 CONSENT FOR MEDICAL TREATMENT- S110, MHA

Consent must be sought for medical treatment from voluntary and involuntary patients and mentally impaired accused patients in an authorised hospital on all occasions.

The Mental Health Act 1996 does not permit medical treatment to be provided where the involuntary patient or mentally impaired accused in an authorised hospital is capable of providing consent but chooses not to consent.

Patients incapable of providing consent

In relation to involuntary patients detained in an authorised hospital and mentally impaired accused in an authorised hospital who are deemed incapable of providing consent to treatment, the Chief Psychiatrist may approve in writing medical treatment under section 110 of the *Mental Health Act 1996*. The Chief Psychiatrist has delegated this authority.

Delegation: The Chief Psychiatrist has delegated this authority to those psychiatrists listed in Table 1 to approve in writing medical treatment to be given to involuntary patients detained in an authorised hospital and mentally impaired accused in an authorised hospital under section 110 of the *Mental Health Act 1996*. In circumstances where the incumbents of the positions are not available, this delegation is effective provided that the **psychiatrist on duty** is legitimately performing the functions of the position nominated as the **psychiatrist in charge** of the mental health service.

3.0 OPINION OF ANOTHER PSYCHIATRIST MAY BE REQUESTED- S 111, MHA

If an involuntary patient or mentally impaired defendant who is in an authorised hospital is dissatisfied with the psychiatric treatment prescribed they may request that the Chief Psychiatrist arrange for the opinion of another psychiatrist who has not previously considered the matter as to whether the treatment should be given.

Delegation: The Chief Psychiatrist has delegated this responsibility, to arrange for the opinion of a psychiatrist, who is not the treating psychiatrist, as to whether the psychiatric treatment should be given, to those psychiatrists listed in Table 1. In circumstances where the incumbents of the positions are not available, this delegation is effective provided that the **psychiatrist on duty** performing the functions of the position is nominated as the **psychiatrist in charge** of the mental health service.

It is desirable that the psychiatrist requested to provide this opinion be independent of the treating team and whenever possible independent of the service. (See Operational Circular REQUEST FOR ANOTHER OPINION ON PSYCHIATRIC TREATMENT *MENTAL HEALTH ACT 1996* (ss111,112 No OP 2059/06).

4.0 TRANSFER OF RESPONSIBILITY, S 112, MHA

Section 112 titled '*Further remedy where person dissatisfied*' states that

(1) If — (a) an opinion obtained under section 111 ('*opinion of another psychiatrist mayberequested*') indicates that the psychiatric treatment should be modified or discontinued; and

(b) the person concerned continues to be dissatisfied with the treatment, the Chief Psychiatrist is required, on becoming aware of the person's continued dissatisfaction, to take action under subsection (2).

(2) The Chief Psychiatrist is to

(a) transfer responsibility for treating the person from the treating psychiatrist to another psychiatrist;

Delegation: Table 1 lists those positions empowered by the Chief Psychiatrist with the delegated authority to transfer responsibility for treating the person from the treating psychiatrist to another psychiatrist. In circumstances where the incumbents of the positions are not available, this delegation is effective provided that the **psychiatrist on duty** is legitimately performing the functions of the position nominated as the **psychiatrist in charge** of the mental health service.

5.0 ACCESS TO CERTAIN INFORMATION ABOUT A PATIENT- S 205, MHA

The Chief Psychiatrist has authority under the *Mental Health Act 1996*, section 205, to allow access to certain information about whether a particular person has been admitted to, or is detained in an authorized hospital.

Delegation: Table 1 lists those positions empowered by the Chief Psychiatrist with the delegated authority to allow access to information about whether a particular person has been admitted to, or is detained in, an authorized hospital. In circumstances where the incumbents of the positions are not available, this delegation is effective provided that the **psychiatrist on duty** is legitimately performing the functions of the position nominated as the **psychiatrist in charge** of the mental health service.

When exercising this delegation, those psychiatrists with delegated authority should be aware of the provisions in the Act in that information is only to be released to a person who has a proper interest in the matter. The psychiatrist is to ensure that the recipient of the information does have a proper interest in the matter.

Table 1 Psychiatrist Positions with Delegated Authority

North Metropolitan Area Health Service

Area Executive Director, Mental Health
Clinical Director, Adult Mental Health Program
Clinical Director, Older Adult Mental Health Program
Head of Clinical Service, Graylands Hospital
Head of Clinical Service, Inner City Mental Health Service
Head of Clinical Service, Sir Charles Gairdner Department of Psychiatry
Head of Clinical Service, Joondalup/Clarkson Community Mental Health
Head of Clinical Service, Mirrabooka Community Mental Health
Morley Adult Mental Health Centre, Consultant Psychiatrist
Head of Clinical Service, Osborne Community Mental Health
Head of Clinical Service, Subiaco Community Mental Health (Avro House)
Head of Clinical Service, Swan Adult Mental Health Service
Head of Service, Selby Older Adult Mental Health Service
Head of Service, Osborne Older Adult Mental Health Service
Head of Service, Swan Elderly Mental Health Service
Head of Service, Inner City Mental Health Services for Older Adults
Head of Service, Joondalup Older Adult Mental Health Service
Consultant Psychiatrist, Ursula Frayne Unit, Mercy Hospital
Consultant Psychiatrist/Team Leader, Warwick CAMHS
Director, State Forensic Mental Health Service
In-patient Director, SFMHS (Frankland Centre)
Director, Community Forensic Mental Health Service

South Metropolitan Area Health Service

South Metropolitan Area Health Service, Area Director Mental Health Service
Armadale Mental Health Service, Clinical Director
Bentley Mental Health Service, Clinical Director
Fremantle Mental Health Service, Clinical Director
Peel & Rockingham Kwinana (PaRK) Mental Health Service, Clinical Director

Rural

Central West Mental Health Service, Regional Consultant Psychiatrist
Great Southern Mental Health Service, Clinical Director Mental Health
Kalgoorlie Boulder Mental Health Inpatient Unit, Consultant Psychiatrist
Northwest Mental Health Service, Regional Consultant Psychiatrist Director
Wheatbelt Mental Health Service, Regional Consultant Psychiatrist
South West Mental Health Service, Consultant Psychiatrist on Duty at APU Bunbury or Consultant Psychiatrist on Call

Women's and Children's Health Service

Women's and Children's Health Service, Chair, Psychological Medicine Clinical Care Unit

Further Details

More detailed information about these delegations can be found in the *Supplement to the Clinicians Guide, Mental Health Act 1996*. The Supplement is available on the Chief Psychiatrist's website: www.chiefpsychiatrist.health.wa.gov.au or a copy may be obtained by contacting the office on 9222 4462.

Dr Neale Fong
DIRECTOR GENERAL
DEPARTMENT OF HEALTH