

MEMORANDUM OF AGREEMENT

DATED this

12

day of

September

2011

BETWEEN :

The MINISTER FOR MENTAL HEALTH FOR THE STATE OF VICTORIA
of Level 22, 50 Lonsdale Street, Melbourne 3000 (**"the Victorian Minister"**)

AND

The MINISTER FOR MENTAL HEALTH AND SUBSTANCE ABUSE FOR
THE STATE OF SOUTH AUSTRALIA
of Level 9 CitiCentre Building, 11-13 Hindmarsh Square, Adelaide 5000
("the South Australian Minister"**)**

PART 1: RECITALS

WHEREAS

- A. Part 5A of the *Mental Health Act 1986* (Vic) ("the Victorian Act") and Part 10 of the *Mental Health Act 2009* (SA) ("the South Australian Act") provide for the interstate application of mental health laws.
- B. The Victorian Minister may, in accordance with s 93C of the Victorian Act, enter into an agreement with a Minister responsible for administering a corresponding law about any matters in connection with the administration of Part 5A of the Victorian Act or a corresponding law.
- C. The South Australian Minister may, in accordance with s 62(1) of the South Australian Act, enter into an agreement with a Minister responsible for administering a corresponding law about any matters in connection with the administration of Part 10 of the South Australian Act or a corresponding law.
- D. By this Agreement, the South Australian Minister and the Victorian Minister provide for the administration of Part 5A of the Victorian Act and Part 10 of the South Australian Act with respect to:
 - (i) the making of Victorian Community Treatment Orders for Patients residing in South Australia;
 - (ii) the making or variation of South Australian Community Treatment Orders providing for Patients to receive treatment in Victoria.
 - (iii) the planned transfer of inpatients between Facilities in Victoria and South Australia;
 - (iv) the involuntary assessment and/or treatment of persons from Victoria in South Australia and of persons from South Australia in Victoria;
 - (v) the apprehension and return of South Australian Patients found in Victoria, who are at large; non-compliant with treatment; or absent without leave from South Australia; and
 - (vi) the care, control and transport of Victorian Patients found in South Australia, who are at large; non-compliant with treatment; or absent without leave from Victoria.

E. This Agreement does not apply to:

- (i) security or forensic patients as defined by s 3 of the Victorian Act, Patients subject to orders under s 16(3)(a) of the Victorian Act or orders made under Part 5 of the *Sentencing Act 1991* (Vic);
- (ii) defendants with a mental impairment as defined by Division 5 of Part 8A of the *Criminal Law Consolidation Act 1935* (SA), who may also be referred to in South Australia as forensic mental health patients; or
- (iii) police prisoners.

IT IS AGREED:

PART 2: DEFINITIONS AND INTERPRETATION

2.1 The following words and expressions have the following meanings unless the context otherwise requires:

"Agreement" means this Agreement including any Annexures to it.

"Approved Mental Health Service" has the same meaning as in the Victorian Act.

"Approved Treatment Centre" or **"ATC"** means any hospital, clinic or other premises, or any particular part of such a place, declared under Part 12 of the South Australian Act to be an ATC for the purposes of the South Australian Act.

"Authorised Officer" with respect to South Australia means:

- (a) a mental health clinician; or
- (b) an ambulance officer; or
- (c) a person employed as a medical officer or flight nurse by the Royal Flying Doctor Service of Australia (Central Operations) Incorporated or the Royal Flying Doctor Service of Australia (South Eastern Section); or
- (d) a person of a class prescribed by the regulations.

"Authorised Psychiatrist" means a person appointed under the Victorian Act

to be the authorised psychiatrist for an Approved Mental Health Service and includes his or her delegate as appointed from time to time.

"Civil Interstate Apprehension / Care and Control Order" means an order in the same form or substantially the same form as Annexure 3 and any amendments made in accordance with clause 9.5.

"Civil Interstate Transfer Request" means a request in the same form or substantially the same form as Annexure 2 and any amendments made in accordance with clause 8.7.

"Community Treatment Order" means:

- (a) with respect to South Australia, an order under Division 1 or 2 of Part 4 of the South Australian Act; and
- (b) with respect to Victoria, an order under s 14 of the Victorian Act.

"Contact Officers" means the persons described in Annexure 1.

"Corresponding Law" means:

- (a) with respect to South Australia, the Victorian Act when declared as such in the *Mental Health Regulations 2010 (SA)*; and
- (b) with respect to Victoria, the South Australian Act when declared as such under s 93B of the Victorian Act.

"Corresponding Order" means:

- (a) with respect to South Australia, a Victorian Community Treatment Order; and
- (b) with respect to Victoria, a South Australian Community Treatment Order when declared as such under s 93B of the Victorian Act.

"Detention and Treatment Order" means an order under Division 2, 3 or 4 of Part 5 of the South Australian Act.

"Director" in relation to an Approved Treatment Centre (ATC) or a Limited Treatment Centre (LTC), has the same meaning as under the South

Australian Act and includes his/her delegate as appointed from time to time.

"Facility" means an Approved Mental Health Service in Victoria ('Victorian Facility') or an Approved Treatment Centre (ATC) or a Limited Treatment Centre (LTC) in South Australia ('South Australian Facility').

"Interstate Authorised Officer" with respect to South Australia means a person on whom power is conferred under a corresponding law to take a person who has a mental illness into his or her care and control.

"Interstate Person" means:

- (a) a Victorian Patient, absent without leave from a Victorian Facility and liable for apprehension under s 43 of the Victorian Act and for whom there are reasonable grounds to suspect is in South Australia; or
- (b) a South Australian Patient:
 - (i) at large from a South Australian Facility; or
 - (ii) prior to admission (but subject to a Detention and Treatment Order in accordance with Part 5 of the South Australian Act); or
 - (iii) subject to a Community Treatment Order in accordance with Part 4 of the South Australian Act who has not complied with the requirements of the order;

and for whom there are reasonable grounds to suspect is in Victoria.

"Involuntary Treatment Order" has the same meaning as in the Victorian Act.

"Limited Treatment Centre" or **"LTC"** means any hospital, clinic or other premises, or any particular part of such a place, declared under Part 12 of the South Australian Act to be an LTC for the purposes of the South Australian Act to provide care and treatment for a Detained Patient for up to seven days.

"Mental Health Clinician" with respect to South Australia means a person of a class of persons who are engaged in the treatment or care of patients and classified by the Chief Psychiatrist as mental health clinicians for the purposes of the South Australian Act.

"Patient" means:

- (a) Victorian Involuntary Patient, as defined in this Agreement; or
- (b) South Australian Patient, as defined in this Agreement.

"Patient Transport Request" with respect to South Australia means a patient transport request issued under Part 9 or Part 10 of the South Australian Act.

"South Australian Act" means the South Australian *Mental Health Act 2009* including the *Mental Health Regulations 2010*, and any other regulations and orders made under that Act, but for the purposes of this Agreement a reference to the South Australian Act does not, unless expressly provided, include a reference to the Victorian Act on the basis that the Victorian Act has been declared a corresponding law under that Act.

"South Australian Chief Psychiatrist" means the Chief Psychiatrist as defined in the South Australian Act, and includes his or her delegate as appointed from time to time.

"South Australian Department of Health" means the Department of that name established pursuant to s 26 of the *Public Sector Act 2009 (SA)* and any successor in law to the said department.

"South Australian Patient" means a patient under Part 4 or Part 5 of the South Australian Act, excluding defendants with a mental impairment or Forensic Mental Health Patients as defined by the *Criminal Law Consolidation Act 1935 (SA)* and police prisoners.

"Transfer Order" means:

- (a) in relation to a transfer from Victoria to South Australia, an order under s 93G of the Victorian Act; and
- (b) in relation to a transfer from South Australia to Victoria, a written direction in the form approved by the South Australian Minister in accordance with s 70 of the South Australian Act.

"Victorian Act" means the *Victorian Mental Health Act 1986*, including any regulations and orders made under that Act, but for the purposes of this Agreement a reference to the Victorian 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.

"Victorian Chief Psychiatrist" means the Chief Psychiatrist as described in the Victorian Act, and includes his or her delegate as appointed from time to time.

"Victorian Involuntary Patient" has the same meaning as the Victorian Act, excluding patients subject to orders under s 16(3)(a) of the Victorian Act or orders made under Part 5 of the *Sentencing Act 1991(Vic)*.

2.2 In this Agreement, unless the context requires otherwise:

- (a) words importing the singular include the plural and vice versa;
- (b) references to persons include corporations and bodies corporate;
- (c) references to clauses and Annexures are references to clauses of and Annexures to this Agreement (unless stated otherwise);
- (d) references to a person include the legal personal representatives, successors and assigns of that person;
- (e) references to this or any other document include the document as varied or replaced, and notwithstanding any change to the identity of the parties;
- (f) references to a month are to be construed as a reference to a calendar month.

PART 3: COMMENCEMENT OF AGREEMENT

- 3.1 The parties acknowledge that this Agreement cannot be given full effect until:
- (a) Victoria makes an Order in Council in accordance with s 93B of the Victorian Act declaring the South Australian Act to be a Corresponding Law and a South Australian Community Treatment Order to be a Corresponding Order for the purposes of Part 5A of the Victorian Act; and
 - (b) in accordance with s 62 of the South Australian Act, the Victorian Act is declared to be Corresponding Law for the purposes of Part 10 of the South Australian Act; and
 - (c) this Agreement has been executed by both parties.
- 3.2 This Agreement commences as and from the date that all of the requirements listed in sub-clauses (a)-(c) of 3.1 are satisfied.

PART 4: PURPOSE AND SCOPE OF AGREEMENT

- 4.1 The purpose of this Agreement is to provide for matters in connection with the administration and implementation of Part 5A of the Victorian Act and Part 10 of the South Australian Act dealing with the interstate application of mental health laws.
- 4.2 The application of the Victorian Act and the South Australian Act as Corresponding Laws of South Australia and Victoria respectively, are subject to the express limitations and conditions imposed by the terms of this Agreement.
- 4.3 Nothing in this clause or otherwise in this Agreement is to be taken or construed as extending, limiting or varying the provisions of the Victorian Act or the South Australian Act.
- 4.4 The parties will co-operate in a spirit of goodwill to facilitate the purposes of this Agreement.

- 4.5 A party will, through the Contact Officers, advise the other party of any proposed amendment to legislation or other relevant instrument or authority which is likely to affect the obligations arising under this Agreement or the application and effect of the Corresponding Laws.

PART 5: INTERSTATE GUIDELINES

- 5.1 The parties will act co-operatively and in good faith to develop and implement interstate guidelines to facilitate the purposes of this Agreement.
- 5.2 The interstate guidelines will support the administration and operation of this Agreement.
- 5.3 The interstate guidelines may be amended by the written agreement of the Contact Officers.

PART 6: INTERSTATE INVOLUNTARY ASSESSMENT AND/OR TREATMENT

- 6.1 This Part applies only to the assessment and/or involuntary treatment of persons under a Corresponding Law.
- 6.2 A person in one State may be taken to the other State for assessment and/or involuntary treatment under this Part in accordance with ss 93E and 93F of the Victorian Act and ss 74, 75 and 78 of the South Australian Act.

Persons who may be taken to a Facility

- 6.3 A person to whom a request and recommendation under s 9 of the Victorian Act relates, or a person to whom a request and an authority to transport under s 9A of the Victorian Act relates, may be taken to a South Australian Facility for the purpose of assessment and/or involuntary treatment.
- 6.4 A person who has been taken into the care and control of an Authorised Officer under ss 74 or 75 of the South Australian Act may be taken to a Victorian Facility.

Status of person

- 6.5 A person taken to a Victorian Facility must be dealt with as if that person were a person to whom Division 2 of Part 3 of the Victorian Act applies.
- 6.6 A person taken to a South Australian Facility must be dealt with as if that person were a person to whom either Division 1 of Part 4 or Division 2 of Part 5 of the South Australian Act applies, or discharged from the South Australian Facility pursuant to the South Australian Act.

PART 7: COMMUNITY TREATMENT ORDERS

- 7.1 This Part applies only to Community Treatment Orders ('CTO').

Community treatment of South Australian residents under Victorian CTOs

- 7.2 A Victorian CTO may be made in respect of a person who resides in South Australia under s 93I of the Victorian Act. Such an order may only be implemented by a Victorian Facility.
- 7.3 A person authorised to exercise powers in relation to such a Victorian CTO may exercise those powers, other than any power of forcible entry, in South Australia under s 67 of the South Australian Act.
- 7.4 Nothing in this Part or a Corresponding Law allows the enforcement of a Victorian CTO in South Australia if treatment of the person's mental illness involves the administration of electro convulsive therapy.

South Australian CTOs providing for community treatment in Victoria

- 7.5 A South Australian CTO may be made or varied to require a person to submit to treatment of the person's mental illness at a specified Victorian Facility, under s 66 of the South Australian Act.
- 7.6 A South Australian CTO may only require a person attend for treatment in

Victoria with the prior written consent of the Authorised Psychiatrist of the relevant Victorian Facility.

- 7.7 Upon attendance at the specified Victorian Facility, a person subject to a South Australian CTO containing a clause as detailed in paragraph 7.5 above must, in accordance with s 93H of the Victorian Act, be dealt with as if they were a person subject to a request and recommendation under s 9 of the Victorian Act.
- 7.8 A person subject to a South Australian CTO containing a clause as detailed in paragraph 7.5 above will cease to be dealt with as a Patient under the South Australian Act from the time of making of a Victorian Involuntary Treatment Order and continuing for the period during which the person remains in Victoria subject to such a Victorian order.

Non-compliance with a South Australian CTO requiring the person to submit to community treatment in Victoria

- 7.9 If a person subject to a South Australian CTO containing a treatment clause as detailed in paragraph 7.5 above fails to attend at the specified Victorian Facility:
- (a) the Authorised Psychiatrist of the Victorian Facility must notify the South Australian Chief Psychiatrist of the person's failure to attend; and
 - (b) if there are reasonable grounds to suspect the person is in South Australia, the South Australian Chief Psychiatrist may, under s 66(2) of the South Australian Act, issue a Patient Transport Request in respect of the person directing:
 - (i) an Authorised Officer; or
 - (ii) with the prior consent of the Victorian Chief Psychiatrist, an Interstate Authorised Officerto transport the person to the Victorian Facility.

- 7.10 If there are reasonable grounds to suspect the person subject to a South Australian CTO who has failed to attend at the specified Victorian Facility is in Victoria, the Authorised Psychiatrist of the specified Victorian Facility may, at the request of the South Australian Chief Psychiatrist, arrange for the person to be taken to that Facility under s 93H of the Victorian Act.
- 7.11 The South Australian Chief Psychiatrist must notify the Authorised Psychiatrist of the relevant Victorian Facility if a Patient Transport Request is issued in relation to such a person.
- 7.12 An Authorised Psychiatrist must notify the South Australian Chief Psychiatrist if they become aware that a person subject to a Patient Transport Request is taken to a Victorian Facility.

PART 8: PLANNED INTERSTATE TRANSFERS OF INVOLUNTARY INPATIENTS

- 8.1 This Part applies only to the planned interstate transfer of a Patient subject to an involuntary inpatient order.
- 8.2 Refer to Part 7 for arrangements relating to a Patient subject to a Community Treatment Order.
- 8.3 The parties agree that subject to the terms and conditions set out in this Part:
- (a) a Victorian Patient may be transferred to any South Australian Facility;
 - (b) a South Australian Patient may be transferred to any Victorian Facility;
 - (c) a transfer from Victoria to South Australia must be in accordance with s 93G of the Victorian Act and ss 71 & s. 77 of the South Australian Act; and
 - (d) a transfer from South Australia to Victoria must be in accordance with s 70 of the South Australian Act and s 93H of the Victorian Act.

Transfer Order

- 8.9 Where a Patient is transferred in accordance with this Part, the referring Facility must forward to the receiving Facility:
- (a) the Transfer Order; and
 - (b) such other information relating to the Patient as is reasonably necessary or required for the Patient's continued care, treatment or rehabilitation by the receiving Facility.

Status after Transfer

- 8.10 A Patient transferred:
- (a) to a Victorian Facility, must be dealt with as if that Patient were a person in relation to whom a request and recommendation have been made under s 9 of the Victorian Act, and from the time of such transfer will cease to be dealt with as a Patient to whom the South Australian Act applies;
 - (b) to a South Australian Facility, must be dealt with as if that Patient were a person in relation to whom a Detention and Treatment order has been made under Division 2 of Part 5 of the South Australian Act, and from the time of such transfer will cease to be dealt with as a Patient to whom the Victorian Act applies.

PART 9: APPREHENSION / TAKING INTO CARE & CONTROL OF INTERSTATE PERSONS

- 9.1 This Part applies only to Interstate Persons and provides for:
- (a) their apprehension and return; or
 - (b) their being taken into care and control and their transport.
- 9.2 The return of an Interstate Person must be in accordance with Part 5A, Division 4 of the Victorian Act and ss 76 and 77 of the South Australian Act.

Civil Interstate Transfer Request

- 8.4 The referring Facility must, prior to making any transfer, provide the relevant Facility in the other State with a completed Civil Interstate Transfer Request.
- 8.5 Prior to a referring Facility issuing a Civil Interstate Transfer Request, that Facility will consult with the receiving Facility concerning the Patient to be transferred and the contents of the Civil Interstate Transfer Request.
- 8.6 The Civil Interstate Transfer Request must include all information as specified therein.
- 8.7 The form of the Civil Interstate Transfer Request as set out in Annexure 2 may be amended by the written agreement of the Contact Officers.

Transfer subject to Prior Approval of Receiving Facility

- 8.8 A Patient must not be transferred under this Part unless:
 - (a) in respect of a transfer from South Australia to Victoria, the Authorised Psychiatrist of the Victorian Facility, the Director of the relevant South Australian Facility and the South Australian Chief Psychiatrist have approved the transfer in writing; and
 - (b) in respect of a transfer from Victoria to South Australia, the Director of the South Australian Facility and either the Authorised Psychiatrist of the relevant Victorian Facility or the Victorian Chief Psychiatrist have approved the transfer in writing.

Civil Interstate Apprehension / Care & Control Order

- 9.3 A person authorised by clause 9.6 may issue a Civil Interstate Apprehension / Care and Control Order for the apprehension and return, or the care, control and transport of an Interstate Person.
- 9.4 The Civil Interstate Apprehension / Care and Control Order must include the information specified therein.
- 9.5 The form of Civil Interstate Apprehension / Care and Control Order as set out in Annexure 3 may be amended by the written agreement of the Contact Officers.
- 9.6 A Civil Interstate Apprehension / Care and Control Order may be issued by:
- (a) the South Australian Chief Psychiatrist;
 - (b) the Director of the relevant South Australian Facility;
 - (c) an Authorised Psychiatrist of the relevant Victorian Facility; or
 - (d) the Victorian Chief Psychiatrist
- from the State from which the person is absent without leave, at large or made subject to a Detention and Treatment Order or Community Treatment Order.
- 9.7 A person authorised by clause 9.6 to issue a Civil Interstate Apprehension / Care and Control Order, may also revoke the order by written notice.
- 9.8 Each Party must do all things that are reasonably required and within their power to facilitate the apprehension and return, or the taking into care and control and transport of an Interstate Person named in a Civil Interstate Apprehension / Care and Control Order.
- 9.9 An Interstate Person will not be apprehended or taken into care and control under this Part unless a Civil Interstate Apprehension / Care and Control Order has been issued in accordance with the terms of this Agreement.

Facilities to which an Interstate Person can be taken

- 9.10 Where the Civil Interstate Apprehension / Care and Control Order specifies

that an Interstate Person should be taken to a specific Facility, every effort should be made to take the person to that Facility unless this is not reasonably practicable.

- 9.11 Subject to clause 9.10, an Interstate Person apprehended or taken into care and control under this Part may be taken to a Victorian Facility (subject to consultation with the Victorian Authorised Psychiatrist) or to a South Australian Facility (subject to consultation with the Director of the Facility) in the State of apprehension, pending return to the Facility specified in the Civil Interstate Apprehension / Care and Control Order.

Status of Interstate Person after apprehension

- 9.12 A South Australian Interstate Person:

- (a) who is taken to a Victorian Facility under s 93K of the Victorian Act, may be detained under Division 2 of Part 3 of the Victorian Act pending the person's return to South Australia; and
- (b) once detained the person must continue to be detained at the Victorian Facility until:
 - (i) the person is taken to a South Australian Facility; or
 - (ii) the person is discharged from the Victorian Facility under the Victorian Act.

- 9.13 A Victorian Interstate Person:

- (a) who is taken to a South Australian Facility may be detained under Division 2 of Part 5 of the South Australian Act pending the person's return to Victoria; and
- (b) once detained the person must continue to be detained at the South Australian Facility until:
 - (i) the person is taken to a Victorian Facility; or
 - (ii) the person is discharged from the South Australian Facility under the South Australian Act.

PART 10: REVIEW OF AGREEMENT

- 10.1 The parties may agree to the periodic review of this Agreement by the Contact Officers or their nominees.

PART 11: AMENDMENT OF AGREEMENT

- 11.1 Amendments to this Agreement may only be made by the written agreement of the parties and should be initiated through the Contact Officers.
- 11.2 Any amendments to this Agreement must be contained in a document distributed to both parties and must include the date on which the amendment will come into force.

PART 12: CONFIDENTIALITY OF INFORMATION

- 12.1 All information obtained from a party or otherwise obtained or created in the implementation of the South Australian Act or the Victorian Act as Corresponding Laws and this Agreement, is confidential except to the extent that such information is in the public domain or is otherwise permitted by law to be disclosed.
- 12.2 Any party who receives information from the other party or obtains or creates information in respect of a person from the other State must treat that information in accordance with the legislation relating to privacy and the collection, keeping and disclosure of information that is in force in the party's jurisdiction.
- 12.3 Each party must take all reasonable steps to ensure that information obtained from the other party or obtained or created in respect of a person from the other State is dealt with so as not to cause the other party to offend any of that party's own privacy or confidentiality obligations.

PART 13: DISPUTE RESOLUTION

- 13.1 Disputes arising under this Agreement must be referred to the Contact Officers for resolution.
- 13.2 The Contact Officers must attempt in good faith to resolve any dispute arising under this Agreement within 7 business days.
- 13.3 In the event that the Contact Officers cannot resolve the dispute, the dispute will be referred to the South Australian Minister and the Victorian Minister for resolution.
- 13.4 The parties acknowledge that failure to resolve a dispute arising under this Agreement will jeopardise the continued existence of the Agreement.

PART 14: TERMINATION OF AGREEMENT

- 14.1 Either party may terminate this Agreement by giving the other party three months written notice of an intention to terminate. If both parties agree the notice requirement under this clause can be waived.
- 14.2 As soon as possible after the Agreement has been terminated under clause 14.1, both parties will take such other action within their power as is necessary to effect the termination of this Agreement.

PART 15: SERVICE OF DOCUMENTS

- 15.1 All documents or notices that may or are required to be delivered or served under this Agreement may be delivered or served as permitted by law. The address for service on the parties is as set out in Annexure 1.

PART 16: SEVERANCE

16.1 Any provision in this Agreement will be read down to the extent necessary to prevent that provision being invalid, voidable or unenforceable in the circumstances.

PART 17: COUNTERPARTS

17.1 This Agreement may be executed in any number of counterparts each of which will be deemed an original but all of which will constitute one and the same instrument.

SIGNED SEALED AND DELIVERED)
by the MINISTER FOR MENTAL HEALTH)
for and on behalf of the State of Victoria)
but not so as to incur personal liability)

Mary Wooldridge
.....
Hon Mary Wooldridge MP

in the presence of:

Lynette Hall
.....
Signature

LYNETTE HALL
.....
Print Name

SIGNED SEALED AND DELIVERED)
by the MINISTER FOR MENTAL HEALTH)
AND SUBSTANCE ABUSE for and on)
behalf of the State of South Australia)
but not so as to incur personal liability)

John Hill
.....
Hon John Hill MP

in the presence of:

Amy Kitsehaar
.....
Signature

AMY KITSELAAR
.....
Print Name



Annexure 1

AGREEMENT DETAILS

Contact Officer

The contact officer for any issue arising out of the administration or application of the Agreement or the corresponding laws is:

For Victoria	Director Policy Planning and Strategy, Mental Health, Drugs and Regions Division (or his/her delegate) Department of Health 50 Lonsdale Street, MELBOURNE 3000 Tel: (03) 9096 5238 Email: pier.decarlo@health.vic.gov.au Fax: (03) 9096 9169
For South Australia	Chief Psychiatrist for South Australia (or his/her delegate) SA Health Citicentre building 11 Hindmarsh Square ADELAIDE SA 5000 Tel: (08) 8226 7210 Email: margaret.honeyman@health.sa.gov.au Fax: (08) 8226 6235

Victoria / South Australia Civil Interstate Transfer Request

REQUEST TO TRANSFER:

* Strike out whichever is not applicable

GIVEN NAME(S) OF PATIENT

FAMILY NAME (BLOCK LETTERS) OF PATIENT

Date of birth: / /

Name and address of the *treatment centre (SA) / *approved mental health service (Vic)
where the patient is receiving involuntary treatment as an inpatient

1. PATIENT STATUS:

- Involuntary Inpatient under the *Mental Health Act 1986 (Vic)*
 Patient subject to a Detention and Treatment Order under the *Mental Health Act 2009 (SA)*

Patient is a person eligible for transfer under the *Mental Health Act 2009 (SA)* or the *Mental Health Act 1986 (Vic)* (see note 1).**2. TO BE TRANSFERRED TO:**

name of proposed *treatment centre (SA) or *approved mental health service (Vic)

address of proposed *treatment centre / *service

3. DETAILS OF PERSON MAKING TRANSFER REQUEST: (see note 2)

To be completed by the *Director of treatment centre (or delegate) or *Chief Psychiatrist (SA) or *Authorised Psychiatrist (Vic) or *Chief Psychiatrist (Vic)

Name: Signature: Date of request: / /

Telephone:

Facsimile:

Email:

4. REASON FOR PROPOSED TRANSFER:

Extra details attached: *Yes / No

5. PROPOSED TRANSPORT ARRANGEMENTS: (see note 3)

Extra details attached: *Yes / No

6. TREATMENT REQUIREMENTS:

Extra details attached: *Yes / No

7. RECEIVING FACILITY APPROVAL: (see note 4)

Completed by *Director of treatment centre or delegate (SA) or *Authorised Psychiatrist (Vic)

Date request received: / /

Name:

Designation:

Signature:

Date transfer approved: / /

Telephone:

Facsimile:

Email:

1. The planned interstate transfer of inpatients is governed by Part 8 of the Ministerial Agreement between the two States and sections 93G and 93H of the *Mental Health Act 1986* (Vic) and sections 70 and 71 of the *Mental Health Act 2009* (SA).

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 2009* (SA) and the *Mental Health Regulation 2010* (SA) may be accessed at <http://www.legislation.sa.gov.au/>

2. The planned transfer of an inpatient **from Victoria to South Australia** under section 93G of the *Mental Health Act 1986* (Vic) requires the Victorian Mental Health Review Board to confirm a transfer order made by either the authorised psychiatrist of the Victorian approved mental health service or the Victorian Chief Psychiatrist. 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**.

The planned transfer of an inpatient **from South Australia to Victoria** under section 70 of the *Mental Health Act 2009* (SA) is authorised by the Director of the treatment centre, with the approval of the South Australian Chief Psychiatrist. The proposed transfer **must be in the patient's best interests**. The decision to transfer is subject to an appeal period of 14 days. If an appeal is made, the outcome of the appeal must be known before the transfer can occur. If a patient on a level 3 detention and treatment order made by the Guardianship Board is transferred, the Director or delegate of the treatment centre must notify the Guardianship Board.

3. The following persons are authorised to transport a patient in accordance with the Civil Interstate Transfer Request:

- (i) A mental health clinician (as classified by the Chief Psychiatrist in accordance with the South Australian Act);
- (ii) An ambulance officer (as defined in the South Australian Act);
- (iii) A medical officer or flight nurse employed by the Royal Flying Doctor Service of Australia (Central Operations) Inc or the Royal Flying Doctor Service of Australia (South Eastern Section);
- (iv) A South Australian Police Officer;
- (v) A prescribed person within the meaning of section 7 of the Victorian Act and regulation 5(2) of the *Mental Health Regulations 2008* (Vic) including a member of the Victorian police force or a Victorian ambulance officer;
- (vi) A Victorian authorised psychiatrist or any person authorised by the authorised psychiatrist; or
- (vii) An employee of the Victorian Department of Health authorised by the Victorian Chief Psychiatrist.

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

Planned transfers of involuntary inpatients into South Australia must be approved by the Director of the treatment centre or their delegate and must be in accordance with section 71 of the *Mental Health Act 2009* (SA).

Planned transfers of involuntary inpatients into Victoria must be approved by the Authorised Psychiatrist of the receiving Victorian approved mental health service, in accordance with section 93H *Mental Health Act 1986* (Vic); and the Director of the South Australian treatment centre, with the approval of the South Australian Chief Psychiatrist, in accordance with section 70 of the *Mental Health Act 2009* (SA).

Victoria / South Australia Civil Interstate Apprehension / Care & Control Order

REQUEST TO APPREHEND / TAKE INTO CARE AND CONTROL:

* Delete any notes that do not apply

GIVEN NAME/S OF PATIENT

FAMILY NAME (BLOCK LETTERS) OF PATIENT

Date of birth:/...../.....

1. STATUS OF PATIENT:Patient subject to the *Mental Health Act 2009 (SA)*Patient subject to the *Mental Health Act 1986 (Vic)*
 Liable to be taken into care and control and transported under s.56 or s.57
 Liable to apprehension under s.43

 Patient is absent without leave, required to return or otherwise liable to be taken into care and control or apprehended under the *Mental Health Act 2009 (SA)* or the *Mental Health Act 1986 (Vic)* or a corresponding law declared under either Act (see note 1).
2. RETURN TO:

The abovenamed is to be returned to:

Name of the "treatment centre (SA) or the "approved mental health service (Vic) from which the person is absent without leave

address of "treatment centre"/service

Pending return, the patient may be taken to a treatment centre (SA) or an approved mental health service (Vic) in the State where they were found.

3. PERSON MAKING REQUEST:
 Signed Dated/...../..... Time: hrs(24hr)
 *Director of treatment centre (or delegate) or *Chief Psychiatrist (SA) / *Authorised Psychiatrist of approved mental health service (Vic) or *Chief Psychiatrist (Vic)

GIVEN NAME/S

FAMILY NAME (BLOCK LETTERS)

Telephone:

Fax:

Email:

4. DESCRIPTION OF THE PATIENT:

*Male/Female

Height:

Colour of Eyes:

 Include any distinguishing characteristics
 (e.g. tattoos or scars)

Build:

Weight:

Complexion:

Extra Details Attached: *Yes / No

5. INFORMATION THAT WILL ASSIST WITH APPREHENSION / TAKING PATIENT INTO CARE AND CONTROL:

Include other names used, address where person may be found etc (see note 2):

Extra Details Attached: *Yes / No

6. TREATMENT AND CARE REQUIREMENTS:

Extra Details Attached: *Yes / No

7. RISK SUMMARY (include date of last assessment):

Extra Details Attached: *Yes / No

8. 24 HOUR CONTACT PERSON:

Name:

Designation:

*Mobile or

*Telephone:

Fax:

Email:

1. The apprehension and return of an involuntary patient absent without leave from Victoria, or the taking into care and control and transport of a patient at large, absent without leave or required to return to South Australia, is governed by Part 9 of the Memorandum of Agreement between the Victoria and South Australia and Division 4 of Part 5A of the *Mental Health Act 1986* (Vic) and s.76 and s.77 of Part 10 of the *Mental Health Act 2009* (SA).

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 2009* (SA) and the *Mental Health Regulation 2010* (SA) may be accessed at <http://www.legislation.sa.gov.au>

2. The following persons are authorised to apprehend or take into their care and control an Interstate Person subject to a Civil Interstate Apprehension / Care & Control Order:
 - (i) A mental health clinician (as classified by the Chief Psychiatrist in accordance with the South Australian Act);
 - (ii) An ambulance officer (as defined in the South Australian Act);
 - (iii) A medical officer or flight nurse employed by the Royal Flying Doctor Service of Australia (Central Operations) Inc or the Royal Flying Doctor Service of Australia (South Eastern Section);
 - (iv) A South Australian Police Officer;
 - (v) 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);
 - (vi) An authorised psychiatrist for the purposes of the Victorian Act or any person authorised by the authorised psychiatrist;
 - (vii) An employee of the Victorian Department of Health authorised by the Victorian Chief Psychiatrist.