

Non-emergency patient transport of people with mental illness

Program management circular

Key message

The *Non-Emergency Patient Transport Act 2003* and the *Non-Emergency Patient Transport Regulations 2005* govern non-emergency patient transport (NEPT).

NEPT providers cannot transport a person to an approved mental health service under a provision of the *Mental Health Act 1986* or the *Crimes (Mental Impairment and Unfitness to be Tried) Act 1997*.

NEPT providers can transport people from one mental health service to another mental health service or from a mental health service to the person's place of residence, if the requirements of the NEPT Regulations are met.

Purpose and scope

To provide information about the law and policy requirements governing when non-emergency patient transport (NEPT) of people with mental illness is permitted.

This circular does not consider other forms of transport. Many people can be safely transported in a private vehicle driven by a family member, carer or friend, or an agency vehicle driven by a mental health professional. Where a person cannot be safely transported by these means, it may be necessary to consider NEPT or to call for an ambulance. Decisions about transport should be based on assessments of a person's immediate treatment needs, any risks and the availability of alternate transport options.

Background

The *Non-Emergency Patient Transport Act 2003* ('the NEPT Act') and the *Non-Emergency Patient Transport Regulations 2005* ('the NEPT Regulations') came into force on 1 February 2006.

NEPT providers are trained to provide safe transport of medically stable people who will not require significant medical intervention during transport. The NEPT service is not an emergency ambulance service and will not transport people who require urgent medical evaluation or treatment.

NEPT services

Introduction

The NEPT Regulations prescribe standards and requirements for NEPT services and establish three classes of transport service: low, medium and high acuity patient transport. Each class of transport has different standards and requirements.

People with a diagnosed mental disorder must be transported as either **medium or high acuity** patients. The clinician authorising the referral to NEPT must decide the level of care that will be required during transport (see 'Referrals to NEPT' below). Division 3 of the NEPT Regulations governs the transport of medium acuity patients and Division 4 of the NEPT Regulations governs the transport of high acuity patients.

Division 5 of the NEPT Regulations imposes additional requirements when a person receiving treatment for a mental disorder is to be transported from one health service to another health service or from a health service to the person's place of residence. Division 5 requires that a registered medical practitioner at the sending health service must have assessed the person as stable and suitable for transport.

The person must not require restraint or sedation during transport. Where sedation has been administered prior to transport, the person must be awake and able to follow commands at least 30 minutes after sedation has been administered. NEPT cannot be used if these requirements are not met.

Circumstances when NEPT is permitted

NEPT may be used when a person receiving mental health services on a voluntary basis requires transport, subject to the requirements of the NEPT Regulations.

NEPT may also be used to transport people receiving mental health services on an involuntary basis ('involuntary patient'), but in more limited circumstances. For example, Division 5 of the NEPT Regulations does not apply to any transport that is authorised by a provision of the *Mental Health Act 1986* or the *Crimes (Mental Impairment and Unfitness to be Tried) Act 1997*. This means NEPT can be used to transport an involuntary patient between health services or from a health service to the person's home under Division 5, but not if the transport is being authorised by a provision in one of these acts (see 'Circumstances when NEPT is not permitted' below). Some common scenarios when NEPT providers may transport involuntary patients are:

- The transfer of an involuntary patient from one approved mental health service to another service (s. 39 Mental Health Act).
- The transfer of a person subject to an Involuntary Treatment Order (Schedule 6), which has not yet been confirmed, from an approved mental health service to another service (s. 39 Mental Health Act). For example, a person is placed on an Involuntary Treatment Order in the emergency department of a public hospital that is proclaimed as an approved mental health service, but it is decided to transfer the person to another approved mental health service for admission.
- The transport of a person discharged on a community treatment order from an approved mental health service to a community care unit or an aged persons residential service (r. 15 NEPT Regulations).

See also Appendix 1.

Circumstances when NEPT is not permitted

The Mental Health Act and the Crimes (Mental Impairment and Unfitness to be Tried) Act specify circumstances when a person may be taken from the community to an approved mental health service for the purpose of involuntary treatment.

The Metropolitan Ambulance Service, Rural Ambulance Service and the Alexandra and District Ambulance Service ('public ambulance service providers') have primary responsibility for the transport of people with mental illness who require involuntary treatment in an approved mental health service. If clinical transport is required in these circumstances, a public ambulance service provider should provide that transport in an ambulance. Importantly, ambulance paramedics employed by public

ambulance service providers are ‘prescribed persons’¹ under the Mental Health Act and, as such, have necessary powers to ensure a person can be safely transported to an approved mental health service.²

NEPT providers should not provide transport where that transport is being authorised by a provision in one these acts. For example, NEPT should not be used when:

- A Request (Schedule 1) and a Recommendation (Schedule 2) for involuntary treatment are completed in the community. A NEPT provider should not take the person to an approved mental health service.
- A person subject to a Request (Schedule 1) and a Recommendation (Schedule 2) is taken to an approved mental health service (including an emergency department of a public hospital that is proclaimed as an approved mental health service) or is recommended in an approved mental health service. It is decided to transfer the person to another approved mental health service without admitting the person. A NEPT provider cannot transport the person to the receiving approved mental health service.³
- A Request (Schedule 1) and Authority to Transport (Schedule 4) are completed in the community. A NEPT provider cannot transport the person to an approved mental health service.
- A person’s community treatment order has been revoked. The person is deemed to be ‘absent without leave’ by the Mental Health Act until they return to an approved mental health service. A NEPT provider cannot apprehend and take the person to an approved mental health service

See also Appendix 1.

1 A prescribed person is:

- a member of the police force
- an ambulance officer
- a member of a class of prescribed health service providers. In summary, this class includes registered medical practitioners, registered nurses, registered psychologists, social workers and occupational therapists employed by public mental health services (refer to s. 7 Mental Health Act and the Mental Health Regulations 1998 for the full definition).

2 A ‘prescribed person’ may, with such assistance as is required and such force as may be reasonably necessary, enter any premises in which the prescribed person has reasonable grounds for believing that the person may be found and if necessary to enable the person to be taken safely, use such restraint as may be reasonably necessary (s. 9B Mental Health Act).

3 However, if the person is placed on an Involuntary Treatment Order (Schedule 6), the person becomes a patient of the approved mental health service and can then be transferred to another approved mental health service by either public ambulance service or NEPT providers (refer ‘common scenarios where NEPT transport of involuntary patients is permitted’, above).

About program management circulars

The information provided in this circular is intended as general information and not as legal advice. If mental health staff have queries about individual cases or their obligations under the NEPT Act or Regulations or the Mental Health Act, service providers should obtain independent legal advice.

NEPT and clinical escorts

As discussed, the Mental Health Act specifies circumstances when a person may be taken from the community to an approved mental health service for the purpose of involuntary treatment. The Mental Health Act empowers a 'prescribed person' to take a person to an approved mental health service in these circumstances.

If clinical transport is required to take a person to an approved mental health service, a public ambulance service provider, rather than NEPT, should provide it. Any decision to send a clinical escort with the transport should be based on clinical grounds, having regard to the person's clinical needs and the need to protect the safety of the person and others. The presence of a clinical escort who is a 'prescribed person' does not change the transport requirements.

Where NEPT is permitted, the NEPT Regulations provide for the type and level of escort required.

Referrals to NEPT

An appropriate health professional must approve all referrals to a NEPT service. In the case of medium or high acuity patients, this should be a registered medical practitioner.⁴

As stated, people with a diagnosed mental disorder must be transported as either medium or high acuity patients and, therefore, a registered medical practitioner should approve all referrals to a NEPT service.

Further information

Further information can be obtained from the Department of Human Service's non-emergency patient transport information website www.health.vic.gov.au/nept.

Information about ambulance transport of people with mental illness is available from the Department of Human Service's ambulance website www.health.vic.gov.au/ambulance/transport.pdf.

Electronic copies of the NEPT Act and Regulations and the Mental Health Act can be viewed or downloaded from the legislation and parliamentary documents website www.dms.dpc.vic.gov.au.

⁴ Refer *Non-emergency patient transport services – clinical practice protocols manual* (Department of Human Services, February 2006) at www.health.vic.gov.au/nept. Note that this protocol is currently under review.

Appendix 1

Summary of Mental Health Act 1986 (MHA) and Crimes (Mental Impairment and Unfitness to be Tried) Act 1997 (CMIA) provisions relevant to non-emergency patient transport		
Relevant legislation	Legislation description	Primary responsibility for transport
Common circumstances when NEPT is not permitted		
ss. 9(5)(b) & 12(2)(a) MHA See also ss. 93E, 93F, 93G & 93H MHA for cross border provisions	Request (Schedule 1) and Recommendation (Schedule 2) completed for a person. <ul style="list-style-type: none"> • Person to be taken to an approved mental health service; or • Person to be taken from one approved mental health service to another approved mental health service; or • Person to be taken from a health service to an approved mental health service. 	Public ambulance services
s. 9A MHA	Request (Schedule 1) and Authority to Transport (Schedule 4) completed for a person. <ul style="list-style-type: none"> • Person to be taken to an approved mental health service. 	Public ambulance services
ss. 12(6) & 12AA(7) MHA	Person subject to an Involuntary Treatment Order (Schedule 6) is waiting in the community to be examined by an authorised psychiatrist, who must decide whether to confirm the order or not. <ul style="list-style-type: none"> • At any time before the examination, a medical practitioner employed by an approved mental health service or a mental health practitioner can order the person to be taken to an approved mental health service. 	Public ambulance services
s. 12AC(4)(b) MHA	Person subject to an Involuntary Treatment Order (Schedule 6) is waiting in the community to be examined by an authorised psychiatrist, who must decide whether to confirm the order or not. <ul style="list-style-type: none"> • If the authorised psychiatrist confirms the order at the examination, he or she can order the person to be taken to an approved mental health service. 	Public ambulance services
s. 43 MHA See also ss. 93K & 93L MHA for cross border transport	Involuntary patient who is absent without leave or on a revoked community treatment order . <ul style="list-style-type: none"> • Person to be apprehended and taken to an approved mental health service. 	Public ambulance services
ss. 53 & 53AD MHA	Security or forensic patient who is absent without leave . <ul style="list-style-type: none"> • Person to be apprehended and taken to an approved mental health service. 	Public ambulance services
s. 30 CMIA	Emergency apprehension of person subject to a non-custodial supervision order . <ul style="list-style-type: none"> • Person to be apprehended and taken to an approved mental health service. 	Public ambulance services
Common circumstances when NEPT is permitted, subject to Division 5 of the NEPT Regulations		
s. 39 MHA r. 15 NEPT Regulations 2005	Person subject to an Involuntary Treatment Order (Schedule 6) in an approved mental health service (whether an authorised psychiatrist has confirmed the order or not). <ul style="list-style-type: none"> • Person to be transferred to another approved mental health service. 	Public ambulance services or NEPT services
r. 15 NEPT Regulations 2005	Person subject to an Involuntary Treatment Order (Schedule 6) in an approved mental health service (whether an authorised psychiatrist has confirmed the order or not). <ul style="list-style-type: none"> • Person to be transported to a health service or the person's residence in the community. 	Public ambulance services or NEPT services

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