

Authorised psychiatrist appointment and delegation powers

Chief Psychiatrist's guideline

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Purpose

To provide information about the requirements and procedure for appointing an authorised psychiatrist and the authorised psychiatrists' powers of delegation under the Act.

Background

The role of an authorised psychiatrist is to ensure people who are experiencing mental illness or psychological distress receive appropriate assessment, treatment and care in keeping with the principles and objectives of the Act.

The authorised psychiatrist is a senior psychiatrist who is appointed by the governing body of a designated mental health service to exercise certain powers and functions under the Act. Section 328 of the Act provides the requirements for appointing authorised psychiatrists (refer to the 'Appointment' section of this document). Section 329 of the Act provides for an authorised psychiatrist to delegate functions or powers (refer to the 'Delegation of powers' section of this document).

The governing body of a designated mental health service must appoint at least one psychiatrist as its authorised psychiatrist for the designated mental health service (s 328). The authorised psychiatrist is also responsible for making decisions about compulsory treatment orders, seclusion, restraint and electroconvulsive treatment, as well as providing clinical leadership and supervision to other mental health and wellbeing practitioners. The authorised psychiatrist must collaborate with other mental health and community organisations to establish a service that prioritises the needs of people seeking care and treatment, ensuring it is both responsive and effective.

In addition to the powers of an authorised psychiatrist under the Act, the role of an authorised psychiatrist is also to support the Chief Psychiatrist to perform the Chief Psychiatrist's functions under this Act (s 328(1)(b)). This may include but is not limited to the following:

- to develop, publish and promote standards, local guidelines, policies and procedures for providing mental health and wellbeing services
- to assist the designated mental health service to comply with the standards, guidelines and practice directions issued by the Chief Psychiatrist
- to assist the designated mental health service to develop and maintain clinical governance frameworks to improve the quality and safety of those services
- to provide clinical leadership to the designated mental health service in relation to its obligations under this Act, the regulations and any codes of practice
- to conduct clinical reviews and audits of the designated mental health service
- to analyse data, undertake research and publish information about the designated mental health service
- to conduct internal investigations of the designated mental health service
- to give directions to the designated mental health service in respect of clinical practice and risk management
- to promote cooperation and coordination between the designated mental health service and other providers of health, disability and community support services.

Delivering mental health services requires a compassionate and well-structured approach to ensure the highest standards of care. Authorised psychiatrists act as leaders and play a crucial role in guiding and managing the operations of the mental health service. They provide strategic direction, establish unified care approaches and maintain quality standards.

The authorised psychiatrist's responsibilities encompass maintaining and improving the quality of mental health services for consumers, carers, families and their supporters, as well as their own clinical workforce. They develop policies, protocols and standards and monitor clinical practices to ensure adherence to evidence-based approaches. Through regular evaluation, they identify areas for improvement and implement strategies that enhance the quality and safety of care. The authorised psychiatrist's guidance and mentorship supports the professional development of clinicians to improve outcomes for consumers and reduce clinician burnout. Also, their advocacy efforts help raise awareness, secure resources and shape mental health policies, ensuring the service remains responsive and adapts to the needs of the community it serves.

Key messages

- An authorised psychiatrist means a person appointed by the governing body of a designated mental health service under s 328 of the *Mental Health and Wellbeing Act 2022* ('the Act') (s 3(1)).
- The governing body of a designated mental health service must appoint at least one psychiatrist as the authorised psychiatrist for the designated mental health service (s 328(1)).
- The authorised psychiatrist carries out the functions and exercises the powers conferred on an authorised psychiatrist under the Act or any other Act and supports the Chief Psychiatrist to perform the Chief Psychiatrist's functions under the Act (s 328(1)).
- The appointment of an authorised psychiatrist must be in writing s 328(2)).
- Youth Mental Health and Wellbeing Victoria must approve any intended appointment of a psychiatrist as the authorised psychiatrist of a declared operator before the governing body of the declared operator makes the appointment (s 328(4)).
- The governing body of a designated mental health service must notify, in writing, the Chief Psychiatrist and the Mental Health Tribunal of an appointment made under the Act within five business days after the appointment is made (s 328(5)).
- The authorised psychiatrist may delegate, in writing, any of power or function to a psychiatrist or to a person described in ss 329(1)(b) and (c) of the Act.
- The authorised psychiatrist may delegate, in writing, to a registered medical practitioner employed or engaged by a designated mental health service the powers relating to assessment orders set out in s 329(2) of the Act. This delegation must not be made for a period longer than 12 months and may be renewed (s 329(3)).
- An authorised psychiatrist who has delegated a power, function or duty to a registered medical practitioner must regularly review any exercise of that power or performance of that function or duty by the person to whom they were delegated (s 329(4)).

Terminology

This guideline reflects requirements of the Act. All section references are to the Act unless otherwise stated.

The following terms are used throughout this guideline and are defined in s 3(1) of the Act.

'Authorised psychiatrist' means a person appointed by a governing body of a designated mental health service under s 328.

'Designated mental health service' means a prescribed public hospital, prescribed public health service, prescribed denominational hospital, prescribed privately operated hospital or prescribed private hospital that is registered as a health service under the Act, the Victorian Institute of Forensic Mental Health, a service temporarily declared to be a designated mental health service or a declared operator.

'Psychiatrist' means as a person who is registered under the Health Practitioner National Law as a medical practitioner in the speciality of psychiatry (other than as a student).

Principles

The Act sets out a range of core principles to guide mental health and wellbeing services. These principles apply to all aspects of the role and responsibilities of an authorised psychiatrist.

Mental health and wellbeing principles

Part 1.5 of the Act contains mental health and wellbeing principles to guide mental health and wellbeing service providers to support the dignity and autonomy of people living with mental illness or psychological distress. Mental health and wellbeing service providers must make all reasonable efforts to comply with the mental health and wellbeing principles and to give proper consideration to those principles when making a decision under the Act.

Decision making principles for treatment and interventions

Part 3.1 of the Act contains decision-making principles for treatment and interventions to guide mental health and wellbeing service providers about providing treatment and about using restrictive interventions. Mental health and wellbeing service providers must make all reasonable efforts to comply with the decision-making principles for treatment and interventions and to give proper consideration to these principles when making decisions under the Act.

Information-sharing principles

Part 17.1 of the Act contains information sharing principles that mental health and wellbeing service providers must give proper consideration to when making a decision, performing a function or exercising a power related to the use, disclosure or collection of health or personal information under the Act.

Charter of Human Rights

Mental health and wellbeing service providers must also consider relevant rights protected by the *Charter of Human Rights and Responsibilities Act 2006*. The following will ensure the primary decision-making powers and functions in the Act will be exercised in a way that is compatible with the Charter:

- service providers making all reasonable efforts to comply with the mental health and wellbeing principles when exercising a function
- service providers giving proper consideration to the mental health and wellbeing principles when making a decision
- service providers adhering to the decision-making principles for treatment and interventions
- service providers complying with the information-sharing principles.

Appointment

Section 328(1) of the Act requires the governing body of a designated mental health service to appoint at least one psychiatrist as an authorised psychiatrist for the designated mental health service to:

- carry out the functions and exercise the powers conferred on an authorised psychiatrist under the Act or any other Act
- support the Chief Psychiatrist to perform the Chief Psychiatrist's functions under the Act.

The governing body of a designated mental health service may appoint as many authorised psychiatrists as the designated mental health service requires (s 328(3)). For example, the governing body may appoint an authorised psychiatrist at Campus A of the hospital, which provides adult mental health services, and appoint another authorised psychiatrist at Campus B of the hospital, which provides child and adolescent mental health services.

Any appointment of an authorised psychiatrist must be made in writing (s 328(2)) and the governing body of a designated mental health service must notify, in writing, the Chief Psychiatrist and the Mental Health Tribunal of each appointment within five business days after the appointment is made (s 328(5)). The department's approval is not required when making an appointment.

Under s 328(4) of the Act, Youth Mental Health and Wellbeing Victoria must approve any intended appointment of a psychiatrist as authorised psychiatrist of a declared operator before the governing body of the declared operator makes the appointment.

Under the Mental Health and Wellbeing Transitional Regulations 2023, effective from 1 September 2023, a person who was appointed as an authorised psychiatrist under s 150 of the *Mental Health Act 2014* immediately before 1 September 2023 is taken on and after that date to be appointed as an authorised psychiatrist under s 328 of the Act. This means that authorised psychiatrist appointments made under the Mental Health Act will continue under the Act without new appointments having to be made. However, it is best practice for the governing body of a designated mental health service to review its authorised psychiatrist appointments.

Qualifications

An authorised psychiatrist must be a psychiatrist – that is, a person who is registered under the Health Practitioner National Law as a medical practitioner in the speciality of psychiatry (other than as a student) (s 3(1)).

Documentation

The appointment of an authorised psychiatrist must be in writing (s 328(2)), by instrument. The instrument of appointment can take the form of a letter and should:

- be addressed to the psychiatrist
- refer to s 328 of the Act
- appoint the psychiatrist as an authorised psychiatrist to the designated mental health service (for example, 'Alfred Health' or 'St Vincent's Hospital (Melbourne) Limited')
- be signed by the Chief Executive (or similar) on behalf of the board of management.

A copy of the letter of appointment should be sent to the Chief Psychiatrist and the Mental Health Tribunal. This will satisfy the requirements under s 328(5) of the Act that the Chief Psychiatrist and the Mental Health Tribunal be notified in writing of each appointment of an authorised psychiatrist within five business days after the appointment is made.

A sample letter of appointment is included at **Appendix 1**.

An email is not an acceptable instrument of appointment.

Resignation

When an authorised psychiatrist resigns from a service, their role as an authorised psychiatrist ceases. The governing body of the designated mental health service must appoint another psychiatrist in a timely manner to ensure there is no gap in authorised psychiatrist appointments within a service.

Delegation of powers

Under s 329(1) of the Act, an authorised psychiatrist may, by instrument, delegate any power or function of the authorised psychiatrist to:

- a psychiatrist (as defined by s 3(1) of the Act)
- a person to whom limited registration has been granted under s 66 of the Health Practitioner Regulation National Law to enable the person to undertake a period of postgraduate training or supervised practice in psychiatry or to undertake assessment or sit an examination approved by the Medical Board in relation to psychiatry
- a person to whom limited registration has been granted to enable the person to practise in psychiatry in an area of need under s 67 of the Health Practitioner Regulation National Law.

The delegation must be in writing, by instrument.

An email is not an acceptable instrument of delegation.

A sample letter of delegation of powers is included at **Appendix 2**.

- When an authorised psychiatrist is on short-term leave (for example, sick leave), their appointment, role and responsibilities as authorised psychiatrist continue. However, cover and/or acting arrangements by a delegated psychiatrist must be in place. The substantive authorised psychiatrist must have documentation to show that the delegation of powers has been communicated to the delegated psychiatrist.
- When an authorised psychiatrist is on long-term leave (for example, annual leave, long service leave), cover and/or acting arrangements by a delegated psychiatrist must be in place. The substantive authorised psychiatrist must provide a letter of delegation of powers to the delegated psychiatrist.

Under s 329(2), the following powers, duties and functions relating to assessment orders may also be delegated by the authorised psychiatrist to a registered medical practitioner who is employed or engaged by a designated mental health service:

- the power to examine a person and extend the duration of an assessment order
- the power to assess a person subject to an assessment order and to make a temporary treatment order
- the power to revoke an assessment order.

A delegation to a registered medical practitioner must not be made for a period longer than 12 months and it may be renewed (s 329(3)).

The delegation must be in writing, by instrument.

An email is not an acceptable instrument of delegation.

A sample letter of delegation of powers is included at **Appendix 3**.

The exercise or performance of a power, function or duty delegated to a registered medical practitioner must be regularly reviewed by the authorised psychiatrist who made the delegation (s 329(4)). Authorised psychiatrists should put in place appropriate arrangements to ensure the exercise of these delegated powers and functions are reviewed and recorded for auditing purposes.

The Chief Psychiatrist and the Mental Health Tribunal do not need to be notified of delegations. However, designated mental health services need to be able to provide evidence on the request of the Chief Psychiatrist or the Mental Health Tribunal.

Under the Mental Health and Wellbeing Transitional Regulations 2023, effective from 1 September 2023, any delegation made by an authorised psychiatrist under s 151(1) of the *Mental Health Act 2014*, which was in force immediately prior to 1 September 2023, will have effect as a delegation under s 329(1) of the Act. This means that existing delegations will continue to be valid under the Act. However, it is best practice for the governing body of a designated mental health service to review their authorised psychiatrist delegations.

Further information

An electronic copy of the *Mental Health and Wellbeing Act 2022* can be viewed on the [Victorian legislation and parliamentary documents website](http://www.legislation.vic.gov.au) <www.legislation.vic.gov.au>.

Appendix 1: Sample letter of appointment

[Date]
[Name of psychiatrist]
[Position]
[Health service]
[Address]

Dear [Name of psychiatrist]

**Notice of appointment of authorised psychiatrist
Mental Health and Wellbeing Act 2022, s 328**

On behalf of the board of management of [Name of public hospital / health service], I am pleased to appoint you as an authorised psychiatrist for the [Name of designated mental health service] from [Date appointment is effective]. This appointment is made under s 328 of the *Mental Health and Wellbeing Act 2022*.

As an authorised psychiatrist, you are required to carry out the functions and exercise the powers conferred on an authorised psychiatrist under the Mental Health and Wellbeing Act or any other Act, and to support the Chief Psychiatrist to perform the Chief Psychiatrist's functions under the Mental Health and Wellbeing Act.

Yours sincerely

[Chief Executive Officer]

cc Chief Psychiatrist
President, Mental Health Tribunal

Appendix 2: Sample letter of delegation of powers under s 329(1)

[Date]
[Name of psychiatrist]
[Position]
[Health service]
[Address]

Dear [Name of the doctor],

Delegation under section 329(1) of the Mental Health and Wellbeing Act 2022

I, [Name], Authorised Psychiatrist of [Name of the designated mental health service] under s 329(1) of the *Mental Health and Wellbeing Act 2022*, hereby delegate to:

Dr [name of the doctor]

all the functions and powers of the authorised psychiatrist of [Name of the designated mental health service], other than the power of delegation, in accordance with s 329 (1) of Mental Health and Wellbeing Act.

Yours sincerely

[Name of the Authorised Psychiatrist]

Appendix 3: Sample letter of delegation of powers under s 329(2)

[Date]
[Name of psychiatrist]
[Position]
[Health service]
[Address]

Delegation under section 329(2) of the Mental Health and Wellbeing Act 2022

I, (Name), Authorised Psychiatrist of (Name of the designated mental health service), hereby delegate to:

Dr [name of the registered medical practitioner]

under s 329(2) of the *Mental Health and Wellbeing Act 2022*, the following powers, duties and functions of the authorised psychiatrist of [Name of the designated mental health service], relating to assessment orders:

- power to examine a person and extend the duration of an assessment order
- power to assess a person subject to an assessment order and make a temporary treatment order
- power to revoke an assessment order.

Your legislative powers related to treatment orders are constrained as follows:*

- You are NOT authorised to revoke a treatment order or a temporary treatment order.
- You are NOT authorised to vary a treatment order or a temporary treatment order.

Your legislative powers related to restrictive interventions are constrained a follows:*

- You are NOT permitted to authorise seclusion of a patient (except in circumstances where the authorised psychiatrist is not reasonably available).
- You are NOT permitted to authorise mechanical restraint of a patient (except in circumstances where the authorised psychiatrist is not reasonably available).

** When necessary you should seek assistance from a fully registered consultant psychiatrist in relation to these tasks and situations.*

Yours sincerely

[Name of the Authorised Psychiatrist]