

Factsheet - Restrictive Interventions in Designated Mental Health Services

Office of the Chief Psychiatrist

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Summary

Victoria's *Mental Health and Wellbeing Act 2022* (the Act) came into effect on 1 September 2023.

The new Act defines changes in the authorisation, monitoring and reporting of restrictive interventions, and for the first time in Victoria, the use of chemical restraint is reportable to the Chief Psychiatrist.

These changes apply to **designated mental health services**.

Restrictive interventions in Designated Mental Health Services

A designated mental health service refers to the entity listed in the *Mental Health and Wellbeing Regulations 2023* (the Regulations) and includes any premises owned or occupied by that entity.

The use of restrictive interventions including the use of chemical restraint, must be reported when it occurs in any part of a designated mental health service (a time limited exception applies to Emergency Departments (ED)) on a person receiving a concurrent mental health and wellbeing service.

The Regulations list the locations that are defined as designated mental health services:

- a. Albury Wodonga Health
- b. Alfred Health
- c. Austin Health
- d. Barwon Health
- e. Bendigo Health Care Group
- f. Eastern Health
- g. Goulburn Valley Health

- h. Grampians Health
- i. Latrobe Regional Hospital
- j. Melbourne Health
- k. Mercy Public Hospitals Incorporated
- l. Mildura Base Public Hospital
- m. Monash Health
- n. Northern Health
- o. Peninsula Health
- p. South West Healthcare
- q. St Vincent's Hospital (Melbourne) Limited
- r. The Royal Children's Hospital
- s. Western Health
- t. The Victorian Institute of Forensic Mental Health (Forensicare)

Services that are not listed above for example, Echuca Regional Health are not designated mental health services.

What this change means

If a person is receiving a mental health and wellbeing service (defined below) in any part of the health service, with the time limited exception for Emergency Departments as described below, the use of restrictive interventions (including chemical restraint) needs to be authorised, monitored and reported in accordance with the Act. This includes all parts of the health service (i.e. mental health acute inpatient units and SECUs, medical and surgical units and intensive care units).

Other settings that are included are community mental health services, CCU and PARCs/ YPARCs although the use of restrictive interventions would be very rare in the sub-acute and community settings, and that emergency services would most likely be contacted in these situations.

A mental health and wellbeing service is a service performed for the primary purpose of:

- improving or supporting a person's mental health and wellbeing; or
- assessing, or providing treatment, care or support to a person for mental illness or psychological distress; or
- providing care and support to a person who is a family member, carer or supporter of a person with mental illness or psychological distress.

Exceptions

The exception to this relates to Emergency Departments in designated mental health services (including Urgent Care Centres) where, until 31 March 2024, the use of restrictive interventions (including chemical restraint) will only need to be authorised, monitored and reported under the Act when used in relation to a 'patient' (that is, someone who is subject to an order).

During the period between now and 31 March 2024, if a situation arises that requires the use of restrictive interventions within ED, another lawful basis would be required to support their use, for example, under the common law duty of care framework.

Mental Health and Wellbeing Act 2022 reference(s)

References in the *Mental Health and Wellbeing Act 2022* include:

- Part 3.7 Division 1, Sections 125 – 129: Use of restrictive interventions under this Act
- Part 3.7 Division 2, Sections 130 – 138: Use of restrictive interventions in a designated mental health service
- Part 3.7 Division 3, Section 139: Chemical restraint during transport

Royal Commission – related recommendation(s)

Recommendation 54 of the Mental Health Royal Commission's final report recommended immediate action to work towards the elimination of the use of seclusion and restraint in designated mental health services by the year 2031.

Changes between MHA 2014 and the MHWB Act 2022

Under the Act, there are new objectives and obligations for mental health and wellbeing service providers and decision makers to aim to reduce, and eventually eliminate, the use of restrictive interventions.

These include:

- to give proper consideration to the decision-making principles for treatment and interventions;
- to review the use of restrictive interventions;
- to notify the non-legal mental health advocacy service provider of the use of restrictive interventions;
- to consider the likely impact on the person to be made subject to a restrictive intervention, including any past experience of trauma;
- increased obligations to document the use of restrictive interventions, including the alternatives that were tried and considered.

Chemical restraint is defined in the Act for the first time and needs to be authorised and monitored by the designated mental health service and reported to the Chief Psychiatrist.

Practice guidelines and reporting directives

Information regarding best practice guidelines, reporting and notification obligations for mental health and wellbeing service providers is contained within the [Chief Psychiatrist's interim guideline for restrictive interventions](#) and the [Chief Psychiatrist's reporting directive for restrictive interventions](#).

These documents can be found on the [Health Department's website](#).

Further information

Information on Restrictive Interventions can be found on the [Health Department's website](#).

The new Act is available for download on the [Victorian Legislation](#) website

Queries relating to Restrictive Interventions, can be emailed to the Office of the Chief Psychiatrist ocp@health.vic.gov.au.

Disclaimer

This fact sheet outlines and defines designated mental health services under the *Mental Health and Wellbeing Act 2022* and the exemption period for Emergency Departments in reporting restrictive interventions (including chemical restraint) from now until 31 March 2024.

This factsheet also summarises the differences between the *Mental Health Act 2014* and *Mental Health and Wellbeing Act 2022* that apply to the Chief Psychiatrist's statutory role.

It provides information to assist the mental health and wellbeing sector transition from the previous act to the new act in the Chief Psychiatrist's areas of oversight. The fact sheet is valid until **31 March 2024**.

To receive this document in another format, phone 1300 767 299, using the National Relay Service 13 36 77 if required, or email ocp@health.vic.gov.au

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