

Interstate Guidelines
between
the Australian Capital Territory and Victoria
for
cross-border mental health arrangements

2012

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1. Introduction

These Guidelines have been developed under Part 4 of the Memorandum of Agreement ('the Agreement') signed on 23 November 2010 between Victoria and the Australian Capital Territory (ACT).

The Agreement was made under Part 5A of the Mental Health Act 1986 (VIC) and Part 5A of the Mental Health (Treatment and Care) Act 1994 (ACT). The Agreement provides for:

- i. the planned transfer of Patients between Victorian and ACT mental health facilities;
- ii. the apprehension of Interstate Persons absent without leave who abscond from Victoria to the ACT or from the ACT to Victoria; and
- iii. ancillary matters, including the development of Guidelines.

These Guidelines provide operational guidance on the provisions of the Agreement for cross-border mental health services. Action taken in good faith under the Agreement will not be invalid on the sole grounds that the action does not comply with these Guidelines.

In the event of an inconsistency between the Agreement and these Guidelines, the terms of the Agreement will prevail.

These Guidelines do not apply to:

- i. security or forensic patients as defined by s3 of the Victorian Act, involuntary patients subject to orders under s16(3)(a) of the Victorian Act or orders made under Part 5 of the Sentencing Act 1991 (Vic); or
- ii. a mentally dysfunctional person subject to an ACT community care order, a mentally dysfunctional or mentally ill offender within the meaning of that term in the Dictionary of the ACT Act who may be apprehended in accordance with the ACT Act; or a person ordered by a court of the ACT to be detained in custody until the ACT Mental Health Tribunal orders otherwise, who may be apprehended in accordance with the ACT Act.

Further information on these guidelines can be obtained from the relevant State advice line in Annexure 1.

These guidelines do not constitute legal advice. Service providers with queries regarding their legal responsibilities should obtain independent legal advice.

2. Definitions

The following words in these Guidelines have the meanings set out below, unless the context otherwise requires:

ACT Act means the *Mental Health (Treatment & Care) Act 1994*, including any regulations and orders made under that Act (but for the purposes of this Agreement a reference to the ACT 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).

ACT Chief Psychiatrist means the ACT Chief Psychiatrist appointed in accordance with Part 10 of the ACT Act, and includes his or her delegate as appointed from time to time.

Agreement means the memorandum of agreement between the ACT and Victoria signed on 23 November 2010 including the Annexure to it.

Approved Facility means a Facility approved under section 48(1) of the ACT Act.

Approved Mental Health Service means a premises or a service as defined by the Victorian Act.

Authorised Person means a person who, when in the ACT, is able to:

- (a) Transfer a Patient by taking them to an interstate Facility; or
- (b) Apprehend an Interstate Person pursuant to a Civil Interstate Apprehension Order and take them to a local or interstate Facility. That person being:
 - a. An ACT Mental Health Officer;
 - b. An ACT Doctor; or
 - c. An ACT Police Officer.
 - d. A Victorian registered medical practitioner, registered nurse, registered psychologist, social worker or occupational therapist who is employed by a relevant psychiatric service (within the meaning of regulation 5(2) of the Mental Health Regulations 2008 (Vic)) and who is engaged in the provision of care and treatment to persons with a mental disorder.
 - e. A Victorian Authorised Psychiatrist or any person authorised by the Authorised Psychiatrist;
 - f. An employee of the Victorian Department of Health authorised by the Victorian Chief Psychiatrist;
 - g. A Victorian Ambulance Officer;
 - h. A member of Victoria Police.

Civil Interstate Apprehension Order means an order in the same form as or in substantially the same form as Annexure 3.

Civil Interstate Transfer Request Notice means a notice in the same form as or in substantially the form as Annexure 2.

Community Treatment Order means an order made under section 14 of the Victorian Act.

Contact Officer means the person or persons described in Annexure 1.

Corresponding Law means:

- i. with respect to Victoria, the ACT Act as declared under section 93B of the Victorian Act; and
- ii. with respect to the ACT, the Victorian Act as declared as such by regulations made pursuant to section 48D of the ACT Act.

Facility means an Approved Facility in the ACT or an Approved Mental Health Service in Victoria.

Home State means in relation to a person, the State (being either Victoria or the ACT) in which that person ordinarily resides.

Interstate Person means:

- i. a person who is subject to an ACT Psychiatric Treatment Order or is detained under sections 38 or 41 of the ACT Act and is absent without leave from an ACT Facility and is required to return to an ACT Facility for assessment or treatment and there are reasonable grounds to suspect is in Victoria or;
- ii. a Victorian Involuntary Patient who is absent without leave from a Victorian Facility and liable to apprehension under section 43 of the Victorian Act and there are reasonable grounds to suspect is in the ACT.

Patient means:

- i. a person who is subject to an ACT Psychiatric Treatment Order or is detained under sections 38 or 41 of the ACT Act or;
- ii. a Victorian Involuntary Patient as defined by these Guidelines.

Prescribed Person means a person who, when in Victoria, is able to:

- (a) Transfer a Patient by taking them to an interstate Facility; or
- (b) Apprehend an Interstate Person pursuant to a Civil Interstate Apprehension Order and take them to a local or interstate Facility. That person being:
 - a. A Victorian registered medical practitioner, registered nurse, registered psychologist, social worker or occupational therapist who is employed by a relevant psychiatric service (within the meaning of regulation 5(2) of the Mental Health Regulations 2008 (Vic)) and who is engaged in the provision of care and treatment to persons with a mental disorder.
 - b. A Victorian Authorised Psychiatrist or any person authorised by the Authorised Psychiatrist;
 - c. An employee of the Victorian Department of Health authorised by the Victorian Chief Psychiatrist;
 - d. A Victorian Ambulance Officer;
 - e. A member of Victoria Police;
 - f. An ACT Police Officer
 - g. An ACT Doctor
 - h. An ACT Mental Health Officer.

Psychiatric Treatment Order means a psychiatric treatment order as defined in the ACT Act, and includes a restriction order made under section 30 of the ACT Act if that is made in addition to the psychiatric treatment order.

State also means territory.

Transfer Order means in relation to a transfer from Victoria to the ACT, an order confirmed by the Victorian Mental Health Review Board in accordance with section 93G of the Victorian 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 ACT Act on the basis that the ACT Act has been declared a Corresponding Law under that Act).

Victorian Authorised Psychiatrist means a person appointed pursuant to 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.

Victorian Chief Psychiatrist means the Chief Psychiatrist as defined 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 (Part 3, Division 2) excluding patients subject to orders under section 16(3)(a) of the Victorian Act or orders made under Part 5 of the *Sentencing Act 1991* (Vic).

3. Agreed Principles

Users of these Guidelines should interpret the Guidelines in a way that is consistent with the following principles to ensure, as far as practicable, Patients receive appropriate care and treatment for their mental illness, regardless of their State of origin.

Principle 1: Cooperation

Services in both States should work together to foster positive professional relationships that facilitate the treatment and care of people with a mental illness, protect their rights and promote their safety.

Principle 2: Least restrictive practices

People taking action without a Patient's consent must attempt to keep to a minimum the restrictions they impose on the Patient's liberty by ensuring such restrictions can be demonstrably justified. This means there must be a clear and documented rationale supporting the actions and decisions that led to the restriction being imposed.

Principle 3: Respect

People making decisions about a Patient's treatment and care must recognise and respect the diverse needs, values and circumstances of each Patient, including their race, religion, culture, gender, age, sexual orientation and any disability. There must be no unlawful discrimination.

Principle 4: Participation

Patients must be given the opportunity to participate, as far as is practicable, in their proposed treatment and care. Unless the Patient objects, the wishes of any guardian, family member or primary carer who is involved in providing ongoing care or support to the Patient should also be taken into account.

Principle 5: Privacy and confidentiality

Information should only be disclosed if it is reasonably necessary or required for a Patient's treatment and care, transport or apprehension. All information must be treated in accordance with the legislation relating to privacy or confidentiality that is in force in the relevant State:

- *in the ACT* it is the *ACT Health Directorate Records (Privacy and Access) Act 1997* and the *Commonwealth Privacy Act 1998*; and
- *in Victoria* it is the *Victorian Act* and the *Health Records Act 2001*.

Refer to the DH: Programme Management Circular: Confidentiality under the Mental Health Act, November 2008

4. Planned interstate transfer of Patients

This Part applies to Patients, as defined in Part 2 of these Guidelines. This Part *does not* apply to an Interstate Person subject to a Civil Interstate Apprehension Order, admitted to an inpatient Facility pending return to their Home State (see Part 5).

Note: this part does not cover involuntary patients receiving treatment in the community. See additional information at Part 7.

4.1 General principles

The responsible clinician at the treating Facility will make decisions on appropriate arrangements for an interstate transfer, in consultation with the responsible clinician at the receiving Facility.

In accordance with Agreed Principle 4, the responsible clinician at the treating Facility will make decisions about a proposed transfer in consultation with the Patient proposed to be transferred.

The responsible clinician at the treating Facility may only request the interstate transfer of a Patient if the proposed transfer satisfies the preliminary requirements set out in 4.2.1.

The proposed receiving Facility should respond to a transfer request as soon as practicable. The proposed receiving Facility should provide an estimate of the time for which the bed will remain available and notify the treating Facility as soon as practicable of any change in availability.

4.2 Procedures for interstate transfer of Patients

The following procedures apply to interstate transfers:

4.2.1 Preliminary requirements.

A treating Facility may only request the interstate transfer of a Patient where:

- i. the Patient could continue to be detained at the treating Facility under the provisions of the local Act for involuntary treatment; and
- ii. the clinician authorising the transfer is satisfied that the transfer will be of benefit to the Patient or is necessary for their treatment.

Transfer Orders
(applicable only to
transfers out of Victoria)

For interstate transfers, Victorian Facilities must also prepare a written Transfer Order. The order is made by either the Victorian Authorised Psychiatrist of the treating Facility or the Victorian Chief Psychiatrist completing a MHA form 36. The order must be reviewed by the Victorian Mental Health Review Board ("the Board").

A transfer out of Victoria cannot proceed unless and until it has been confirmed by the Board. The Board must be satisfied of the criteria in 4.2.1 (ii).

In assessing whether the proposed transfer will be of benefit to the Patient, the ACT Chief Psychiatrist or the Victorian Chief/Authorised Psychiatrist, whichever is approving the transfer, and the treating Facility shall consider:

- i. the wishes of the Patient, as far as they can be ascertained;
- ii. the wishes of any guardian, family member or primary carer who is involved in providing ongoing care or support to the person, unless the Patient objects;
- iii. the likely effect of the transfer on the Patient, including their ability to maintain family relationships and cultural and kinship ties;
- iv. the care and treatment requirements of the Patient; and
- v. any other relevant matters.

4.2.2 Request to transfer.

There should be consultation between the treating and proposed receiving Facility prior to the treating Facility making a transfer request. The treating Facility should only provide information about the Patient to the proposed receiving Facility if it is reasonably necessary to enable them to make a decision about the transfer. Chief Psychiatrists in both jurisdictions may be involved as necessary if there is a concern or dispute.

The treating Facility makes a transfer request by preparation of the Civil Interstate Transfer Request Notice.

4.2.3 Who can sign the Civil Interstate Transfer Request Notice?

The treating Facility will provide a completed Civil Interstate Transfer Request Notice (See Annexure 2) signed by either a Victorian Authorised Psychiatrist or the Victorian Chief Psychiatrist (for transfers from Victoria to the ACT) or signed by the ACT Chief Psychiatrist (for transfers from the ACT to Victoria).

If the transfer is agreed, the ACT Chief Psychiatrist (for transfers from Victoria to the ACT) or the Authorised Psychiatrist (for transfers from the ACT to Victoria) of the receiving Facility must endorse their agreement on the Notice by signing and returning it to the treating Facility.

4.2.4 Patient transport and information

Once the transfer is agreed, the treating Facility will arrange the transport of the Patient to the receiving Facility (see 6.2.5 for information on costs)

The treating Facility will forward to the receiving Facility only such information relating to the Patient as is reasonably necessary or required for their continued care and treatment by the receiving Facility.

4.2.5 Effect of transfer on Patient

Once transferred to an ACT Facility, the Patient will be dealt with as if they were a person detained in accordance with section 41 of the ACT Act and from the time of such transfer will cease to be dealt with as a Patient to whom the Victorian Act applies.

Once the Patient is taken to a Victorian Facility, the ACT transfer request notice is taken to be a request and recommendation made under s. 9 of the Victorian Act and the person is made subject to an Involuntary Treatment Order under s12 of the Victorian

Act. From the time of making of the Involuntary Treatment Order the person will cease to be dealt with as a Patient to whom the ACT Act applies.

5. Apprehension of persons absent without leave

This Part applies to the apprehension and return of Interstate Persons, using Civil Interstate Apprehension Orders.

This Part *does not* apply to the apprehension of security or forensic mental health patients. (see Part 1- Introduction)

5.1 General principles

In the circumstances detailed below a Civil Interstate Apprehension Order (IAO) may be issued for the return of an Interstate Person who has absconded to the other State.

The jurisdiction from which the Interstate Person is absent without leave should make all reasonable efforts to persuade the Interstate Person to voluntarily return before a Civil IAO is issued. In the ACT s36K of the ACT Mental Health (Treatment and Care) Act applies. Reasonable efforts should continue to be made to persuade an Interstate Person to return voluntarily, after an order is issued.

Police should only be used to apprehend an Interstate Person in exceptional circumstances.

5.2 Procedures for apprehension of Interstate Persons

5.2.1 *Who can be apprehended?*

Only an Interstate Person (as defined in Part 2 of these guidelines) can be apprehended using a Civil IAO.

A Civil IAO must be in the form of Annexure 3. The section of the form detailing the risk posed by the Interstate Person to self or others must be completed based on the last assessment or contact.

5.2.2 *Who can sign a Civil IAO?*

In Victoria, a Civil IAO may **only** be signed by the Authorised Psychiatrist of the Victorian Facility from which the Patient is absent without leave. In **exceptional circumstances**, the Victorian Chief Psychiatrist **may** sign a Civil IAO where:

For Victorian clinicians:

Apprehension of a person subject to Community Treatment Order

Non-compliance with the reporting conditions of a Victorian Community Treatment Order (CTO) by being in the ACT is not, by itself, reason to issue a Civil IAO for the person to be returned to Victoria.

A Civil IAO may be issued following revocation of a CTO if, **at the time of issuing** the Civil IAO, the Authorised Psychiatrist is satisfied on reasonable grounds that;

(a) the person has not complied with the order and reasonable steps have been taken, without success, to obtain compliance with the order; and

(b) there is an imminent risk of deterioration in the person's mental health or an imminent risk of harm to the person or others that is likely to be avoided or reduced by the execution of an order; and

(c) there is no less restrictive way to protect the person's health and safety.

For further advice refer to Annexure 1.

- (a) the Facility from which the Patient is absent without leave has not signed an order; and
- (b) the Victorian Chief Psychiatrist has reason to believe there is an imminent risk of deterioration in the person's mental health or an imminent risk of harm to the person or others that is likely to be avoided or reduced by the execution of an order; and
- (c) there is no less restrictive way to protect the person's health and safety.

In the ACT, a Civil IAO may be signed by the ACT Chief Psychiatrist.

5.2.3 Who can apprehend?

Where practicable, before issuing the order, the mental health professional issuing the Civil Interstate Apprehension Order should consult with the relevant persons in the other State about the preferred Prescribed (VIC) or Authorised (ACT) Person(s), to apprehend the Interstate Person.

If an Interstate Person, absent without leave from a Victorian Facility is suspected of being in the ACT, the Office of the ACT Chief Psychiatrist should be consulted during business hours on 6205 0687 or the CATT Mental Health Triage Service outside business hours on 1800 629 354 (24 hour service)

If an Interstate Person, absent without leave from an ACT Facility is suspected of being in Victoria, the Office of the Victorian Chief Psychiatrist may be consulted during business hours. Refer to Annexure 1 for contact details. Prescribed and Authorised Persons are defined in Part 2 of these Guidelines.

The following factors should be considered to determine the most appropriate person(s) to request to apprehend the Interstate Person:

- i. What would be most beneficial for the Interstate Person's treatment and care;
- ii. What would be the least restrictive approach with regard to their rights, dignity and self-respect;
- iii. What are the risks (if any) posed by the Interstate Person to themselves and or others.

For ACT Clinicians

Police involvement in apprehension & transport.

Clinicians should also refer to the Memorandum of Understanding between Mental Health ACT, Calvary Health Care ACT, The Canberra Hospital, The ACT Ambulance Service and the Australian Federal Police Regarding Mentally Ill people.

5.2.4 Nominating police to apprehend the Interstate Person

Apprehension by the police can give the impression that an Interstate Person is suspected of having committed a crime, which may cause the Interstate Person unnecessary distress and anxiety

Where the Interstate Person is believed to be in Victoria, police can only be nominated to apprehend in exceptional circumstances: where a risk assessment or the known patient history indicates the Interstate Person's behaviour is likely to pose a significant risk of harm to the Interstate Person or others; or when an ACT Interstate Person's whereabouts in Victoria is unknown. To request Victoria police to apprehend a person

subject to a Civil IAO, contact can be made with the Police Enquiry Service (03) 9247 5928 to discuss provision of a Civil IAO via their secure fax line.

Where the Interstate Person is believed to be in the ACT, all requests to apprehend persons subject to Civil IAOs will be made to the ACT Chief Psychiatrist. The ACT Chief Psychiatrist may nominate ACT police to apprehend a Victorian Interstate Person subject to a Civil IAO in exceptional circumstances where a risk assessment or the known patient history indicates the Interstate Person's behaviour is likely to pose a significant risk of harm to the Interstate Person or others

When police apprehend the Interstate Person using a Civil IAO, the person remains in police custody until there is a transfer of responsibility to a Facility.

5.2.5 Apprehending the person

The person who carries out the apprehension should have a copy of the order in their possession when they apprehend the Interstate Person. They should inform the Interstate Person of the reason for their apprehension and show the Interstate Person the Order at the time of apprehension.

In Victoria, if the police are to carry out the apprehension and it is not practicable for them to obtain a copy of the Civil IAO before executing the order, the police may instead arrange for Record Services Division to fax a copy of the order to the Facility where the Interstate Person is taken, to enable the order to be shown to the person as soon as practicable after their arrival.

In the ACT, if the police are to carry out the apprehension the Order *must* be sighted prior to the action being undertaken. Where urgent police attendance is required due to immediate safety concerns for either the interstate person or members of the community, then the person may be apprehended by police under the provisions of an 'Emergency Apprehension, in accordance with s37 of the Mental Health (Treatment and care) Act 1994. In this event, in addition to the apprehension order continuing to be processed, a 'Statement of Actions Taken' as described in s39(1) of the Mental Health (Treatment and Care) Act 1994 must be completed and placed into the person's clinical record.

5.2.6 Powers to locate and apprehend.

Entry and restraint.

In Victoria the power to use reasonable force to enter premises to find a person or to reasonably restrain a person is prescribed by section 9B(2) of the Victorian Act. Such powers may only be used when they are necessary for a person's safe transport. Where restraint is administered in Victoria, the prescribed form in Schedule 4 of the Victorian Mental Health Regulations 2008 must be completed.

In the ACT the power to enter premises using such force as is necessary to apprehend a person in breach of their order is prescribed by s 36K of the ACT Act.

The entry and restraint powers may only be exercised, in Victoria by a Prescribed Person and in the ACT by an Authorised Person, as defined in Part 2 of these Guidelines.

5.2.7 Where to take the Interstate Person after apprehension.

The Interstate Person is to be returned to the Facility specified in the Civil IAO.

However pending return to that Facility, the Interstate Person should be taken to a Facility in the State where they were apprehended, for assessment. Where practicable, the ACT Chief Psychiatrist or the Victorian Authorised Psychiatrist of the relevant Facility will be consulted prior to the person being taken to that Facility.

5.2.8 Notification once the person has been apprehended.

When an Interstate Person is apprehended, the person who carries out the apprehension must notify the authority that issued the order as soon as practicable.

In the case of orders issued in the ACT, the issuing authority will be the ACT Chief Psychiatrist. In the case of orders issued in Victoria, the issuing authority will be either an authorised psychiatrist of the Victorian Facility from which the person is absent without leave or the Victorian Chief Psychiatrist.

Once notified of the apprehension, the issuing authority must as soon as practicable notify any other person(s) nominated to apprehend that no further action is required.

5.2.9 Revocation of an unexecuted Civil IAO.

Where the apprehension of an Interstate Person is no longer required, any unexecuted Civil IAO relating to that person must be revoked as soon as practicable.

The order is revoked in writing by the person who signed the order or by any person authorised to sign that Civil IAO.

Notice of the revocation is sent to all the person(s) who were nominated to apprehend the Interstate Person.

6. Transport

6.1 General principles

Transport arrangements will vary for each Patient, having regard to their particular circumstances.

Transport should be provided using the least restrictive means, in a manner that ensures the safety of the Patient and others, and that minimises interference with the Patient's privacy, dignity and self-respect.

Determining the appropriate person to apprehend or transport a Patient and the most appropriate mode of transport are clinical decisions based on an assessment of:

- i. The Patient's physical and mental state;
- ii. The Patient's immediate treatment needs;
- iii. The distance to be travelled;
- iv. The risk of harm the Patient poses to self and others;
- v. The Patient's need for clinical support and supervision during the period of travel;
- vi. The availability of various Authorised or Prescribed Persons and modes of transport; and
- vii. The likely effect on the Patient of the proposed mode of transport.

Where practicable, transport decisions should be made by a mental health professional in consultation with the Patient and take into account their wishes, as far as they can be ascertained.

Police involvement in the transport of a Patient should only occur in exceptional circumstances where a risk assessment or the known patient history indicates the Patient's behaviour is likely to pose a significant risk of harm to the Patient or others. It is an option of last resort.

Consideration of these factors might mean it is appropriate to defer transport, to provide treatment or to stabilise their condition.

6.2 Procedures for transport

6.2.1 *Prescribed and Authorised Persons*

The persons prescribed or authorised to exercise powers to apprehend and/or transport are defined in Part 2 of these Guidelines.

6.2.2 *Mode of transport*

Transport of persons between the ACT and Victoria will primarily be by commercial flights.

The Facility arranging transport may only disclose to the airline such information relating to the person as is reasonably necessary or required for their safe transport.

6.2.3 Police

Police involvement in the transport of an individual should only occur in exceptional circumstances where a risk assessment or the known patient history indicates the Patient's behaviour is likely to pose a significant risk of harm to the Patient or others. A police vehicle should only be used for transport after all other transport options have been determined unsuitable.

In Victoria police involvement in transport is governed by the Victorian Protocol between Victoria Police and the Mental Health and Drugs Division of the Department of Health.

In the ACT, police involvement in transport is governed by the *Mental Health ACT, Calvary Health Care ACT, the Canberra Hospital, The ACT Ambulance Service and the Australian Federal Police Protocol Regarding Mentally Ill or Dysfunctional People*

Where a mentally ill person is transported by police, an ACT Mental Health Officer must travel with the Patient.

6.2.4 Escorts

Whether an escort (clinical or security) is required for safe transport in addition to or instead of any accompanying person is a clinical decision made having regard to the principles set out in Part 6.1. This will necessarily involve a risk assessment of the Patient.

A Patient may be accompanied by either a clinical or security escort(s) or both, as determined appropriate. Clinical escorts may also be requested by an airline, the police or ambulance services for a person's safe transport.

An escort must be a Prescribed or Authorised Person, as defined in Part 2 of these Guidelines, being a person who has the power to apprehend and detain.

Security escorts - Police involvement in any aspect of transport should only occur in exceptional circumstances; where a risk assessment or the known patient history indicates the Patient's behaviour is likely to pose a significant risk of harm to themselves or others. It should be an option of last resort.

Requests for Police Assistance are made in accordance with the ACT MOA between Mental Health ACT, Calvary Health Care, The Canberra Hospital, ACT Ambulance Service and the Australian Federal Police; or the Victorian Protocol between Victoria Police and the Mental Health and Drugs Division of the Department of Health.

6.2.5 Costs

The costs associated with transport under these Guidelines, including clinical escorts, may be negotiated by agreement between Facilities.

However, in the absence of any other negotiated agreement, the costs associated with transporting a Patient between jurisdictions will be borne as follows:

Planned transfers costs are the responsibility of the transferring facility unless the Patient is being returned to their home state (for example, after a temporary period of treatment at a Facility outside their home state)

The costs of returning an Interstate Person to the Facility from which they are absent without leave are the responsibility of the Facility seeking their return.

The cost (if any) of transport which does not immediately return the person to their Home State but transports them to a local Facility pending return to their Home State will

be negotiated by agreement between the Facilities. Responsibility for these costs should be agreed prior to the person being transported.

7. Community Treatment Orders

Currently these guidelines do not support the planned interstate transfer of persons receiving involuntary treatment in the community.

As at January 2012 both jurisdictions are reviewing their mental health legislation. Once that process is complete it is expected that a new Agreement will be developed to address the planned transfer of community patients.

Although these individuals are not presently covered, it is possible to assist individuals who wish to relocate to the other jurisdiction using administrative arrangements.

Where a relocation is supported, the ACT Chief Psychiatrist and the relevant Victorian authorised psychiatrist will endeavour to provide smooth transition between the treatment and care being received in the originating jurisdiction and the destination jurisdiction by providing whatever information assists the individual to relocate without disruption to their treatment and care as far as possible.

8. Liaison Arrangements

8.1 General Principle

The effective operation of the Agreement relies on collaborative relationships based on good communication and regular liaison between stakeholders including ACT and Victorian mental health services, police, ambulance services, medical practitioners, carers and consumers.

8.2 Dispute resolution

In the first instance, any disputes arising over the implementation of these Guidelines, should be referred to:

- i. the relevant management of the agency involved, where the issue relates to an agency other than a mental health service, or
- ii. the Director of clinical services of the relevant Victorian Area Mental Health Service or the Director of Clinical Services ACT where the issue relates to mental health services.

If disputes cannot be resolved in this manner, they should be referred to the Contact Officers for resolution pursuant to Annexure 1 of the Agreement.

9. Amendment of the Guidelines

These Guidelines may only be amended by the written agreement of the Contact Officers.

Signed by the ACT and Victorian Chief Psychiatrists on behalf of the ACT and Victoria respectively.



Dr Peter Norrie
Chief Psychiatrist for the ACT

20/7/12
Date



Dr Ruth Vine
Chief Psychiatrist for Victoria

18/6/12
Date

For further advice contact:

For Victoria	Office of the Chief Psychiatrist (business hours only) (03) 9096 7571 or 1300 767 299
For ACT	Manager Mental Health Policy Unit (business hours only) (02) 6207 1066

Contact Officers:

For the resolution of disputes arising under these Guidelines, the Contact officers are:

For Victoria	Mr Pier De Carlo, Director Policy Planning and Strategy Mental Health, Drugs and Regions Division Department of Health 50 Lonsdale Street, MELBOURNE 3000 Tel: (03) 9096 5238 Email: pier.decarlo@health.vic.gov.au Fax: (03) 9096 9169
For the ACT	Mr Richard Bromhead Manager, Mental Health Policy Unit Policy and Government Relations ACT Health Directorate Level 2, 11 Moore St, Canberra City, 2601 Tel: 02 6207 1066 Email: richard.bromhead@act.gov.au or mentalhealth.policy@act.gov.au Fax: 02 6205 0866

ACT / Victoria Civil Interstate Transfer Request Notice

REQUEST TO TRANSFER:

* Delete any notes that do not apply

GIVEN NAMES OF PATIENT FAMILY NAME (BLOCK LETTERS) OF PATIENT Date of birth: / /

Name and address of the "facility"/service where the patient is currently detained:

1. PATIENT STATUS:

- Person subject to an ACT psychiatric treatment order or detained under sections 38 or 41 of the Mental Health (Treatment & Care) Act 1994 (ACT)
 Involuntary Patient under the Mental Health Act 1986 (Vic)

Patient is a person eligible for transfer under the Mental Health (Treatment and Care) Act 1994 (ACT) or the Mental Health Act 1986 (Vic) (see note 1).

2. TO BE TRANSFERRED TO:

name of proposed "approved facility (ACT) or "approved mental health service (Vic)

address of proposed "facility"/service

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

To be completed by the "Chief Psychiatrist (ACT) or the "Authorised Psychiatrist (Vic) or the "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. INFORMATION FOR THE TREATMENT AND CARE OF THE PATIENT:

Extra details attached: *Yes / No

7. RECEIVING FACILITY APPROVAL: (See note 4)

To be completed by the "Chief Psychiatrist (ACT) or the "Authorised Psychiatrist (Vic) Date request received: / /

Name: Designation:

Signature:

Date transfer approved: / /

Telephone:

Facsimile:

Email:

<p>1. The planned interstate transfer of patients is governed by Part 5 of the Ministerial Agreement between the two States and sections 93G and H of the <i>Mental Health Act 1986 (Vic)</i> and sections 48K and 48G of the <i>Mental Health (Treatment and care) Act 1994 (ACT)</i>.</p> <p>The <i>Mental Health Act 1986 (Vic)</i> and the <i>Mental Health Regulations 2008 (Vic)</i> may be accessed at http://www.legislation.vic.gov.au</p> <p>The <i>Mental Health (Treatment and Care) Act 1994 (ACT)</i> and the <i>Mental Health (Treatment and Care) Regulation 2003 (ACT)</i> may be accessed at http://www.legislation.act.gov.au/</p> <p>The Ministerial Agreement may be accessed at http://www.health.vic.gov.au/mentalhealth/crossborder/index.htm or http://www.legislation.act.gov.au under notifiable instruments.</p>
<p>2. The planned transfer of a patient from Victoria to the ACT under section 93G of the <i>Mental Health Act 1986 (Vic)</i> occurs by order of the authorised psychiatrist of the treating Victorian approved mental health service or the Victorian Chief Psychiatrist. Refer to Victorian Mental Health Act form 36 for the form of the order. The form of interstate transfer order may be accessed at: http://www.health.vic.gov.au/mentalhealth/mh-act/forms07/mha36-transfer.pdf. Transfers out of Victoria must be confirmed by the Victorian Mental Health Review Board. 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.</p> <p>The planned transfer of a patient from the ACT to Victoria under section 48G of the <i>Mental Health (Treatment and Care) Act 1994 (ACT)</i> is authorised by the ACT Chief Psychiatrist.</p>
<p>3. PERSONS AUTHORISED TO TRANSPORT A PATIENT TO THE RECEIVING FACILITY / SERVICE IN ACCORDANCE WITH THE CIVIL INTERSTATE TRANSFER REQUEST NOTICE</p> <p>The following are authorised to transport a patient:</p> <ul style="list-style-type: none"> • A Police Officer of the ACT • A Mental Health Officer of the ACT • A Doctor in the ACT • A prescribed person within the meaning of s7 of the Victorian Act and regulation 5(2) of the <i>Mental Health Regulations 2008 (Vic)</i> (including a member of the Victorian police force and a Victorian ambulance officer); • An authorised psychiatrist for the purposes of the Victorian Act or any person authorised by the authorised psychiatrist; or • An employee of the Victorian Department of Health authorised by the Victorian Chief Psychiatrist.
<p>4. The planned interstate transfer of a patient can only occur with the prior consent of the receiving facility or service. This form notifies the interstate facility/service and seeks their consent to the proposed transfer. Consent should be in writing, endorsed on this Notice.</p> <p>Planned transfers into the ACT are approved by the Chief Psychiatrist and must be in accordance with s48K of the <i>Mental Health (Treatment and Care) Act 1994 (ACT)</i></p> <p>Planned transfers into Victoria must be approved by the Authorised Psychiatrist of the receiving Victorian approved mental health service and must be in accordance with s 93H <i>Mental Health Act 1986 (Vic)</i>.</p>

ACT / Victoria Civil Interstate Apprehension Order

REQUEST TO APPREHEND:

*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 (Treatment and Care) Act 1994 (ACT) Patient subject to the Mental Health Act 1986 (Vic)

 Liable to apprehension under s.35K

 Liable to apprehension under s.43

Patient is absent without leave or otherwise liable to be apprehended under the Mental Health (Treatment and Care) Act 1994 (ACT) or the Mental Health Act 1986 (Vic) (see note 1).

2. RETURN TO:

 The patient is to be returned to:
 Insert the name of the "approved facility (ACT) or the "approved mental health service (Vic) from which the person is absent without leave

address of "service"/facility

Pending return, the patient may be taken to an approved facility (ACT) or an approved mental health service (Vic) in the State where they were apprehended.

3. PERSON MAKING REQUEST TO APPREHEND:

To be completed by the "Chief Psychiatrist (ACT) or "The Authorised Psychiatrist of approved mental health service (Vic) or "The Chief Psychiatrist (Vic)

Signed Dated / / Time: hrs(24hr)

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:

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 AT FACILITY/SERVICE REQUESTING PATIENT'S APPREHENSION:

Name: Designation:

*Mobile or

*Telephone:

Fax:

Email:

1. The apprehension and return of an involuntary patient absent without leave from Victoria or from the ACT is governed by Part 6 of the Memorandum of Agreement between the ACT and Victoria and Division 4 of Part 5A of the *Mental Health Act 1986* (Vic) and Part 5A of the *Mental Health (Treatment and Care) Act 1994* (ACT).

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 (Treatment and Care) Act 1994* (ACT) and the *Mental Health (Treatment and Care) Regulation 2003* (ACT) may be accessed at <http://www.legislation.act.gov.au>

The Ministerial Agreement may be accessed at <http://www.health.vic.gov.au/mentalhealth/crossborder/index.htm> or <http://www.legislation.act.gov.au> under notifiable instruments.

2. PERSONS AUTHORISED TO APPREHEND AN INTERSTATE PERSON

- 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 Victoria police and a Victorian ambulance officer);
- An authorised psychiatrist for the purposes of the Victorian Act or any person authorised by the authorised psychiatrist;
- An employee of the Victorian Department of Health authorised by the Victorian Chief Psychiatrist;
- An Authorised Medical Officer or any other suitably qualified person employed at the mental health facility;
- A Police Officer of the ACT;
- ACT Mental Health officer;
- An ACT Doctor;