

Chief Psychiatrist

ADVISORY NOTE

Consent to mental health treatment

PURPOSE	To outline the process for receiving consent to mental health treatment.
SCOPE	Doctors, Mental Health Officers and Clinical Managers.
DEFINITIONS	<p>Enduring Power of Attorney is a person who is given the legal authority to act for, and to make legally binding decisions on behalf of another person in the event that they lose decision making capacity.</p> <p>Guardian is person who is given the power to make decisions on behalf of a person who is unable to make decisions for themselves. All guardians, including public guardians and health attorneys, are appointed by ACAT under the <i>Guardianship and Management of Property Act 1991 (ACT)</i>.</p> <p>Health Attorney is a person that is closely connected to a person, who can consent to medical treatment on a person's behalf at the request of a doctor (<i>Guardianship and Management of Property Act 1991 (ACT)</i>). This is for immediate or short-term treatment. A health attorney may be a domestic partner, carer for the person or close relative or friend.</p>
ADVICE	<ol style="list-style-type: none">1. Prior to the commencement of mental health treatment consent must be obtained. The flow chart below outlines the most appropriate mechanism for receiving consent.2. If a person is not subject to a mental health order, then the following is followed:<ol style="list-style-type: none">(a) If the person has capacity to provide consent, then the person themselves can consent to treatment.(b) If the person does not have decision making capacity, then determine whether a substituted decision maker is appointed. This can be a guardian or enduring power of attorney (EPOA) if they have the power to consent to mental health treatment and the person is willing to receive treatment.(c) If a guardian or EPOA is not appointed, then determine whether a health attorney can be appointed.

	<p>(d) If none of the above are available, then consider the option of an emergency guardianship order via the Public Trustee and Guardian.</p> <p>3. Regardless of whether the person has decision making capacity or not, if the person is unwilling to receive treatment and meets the criteria for a PTO then an application for a PTO can be made.</p>
IMPLEMENTATION	<p>This Advisory will be part of orientation for all staff involved in seeking consent for mental health treatment.</p> <p>Services may develop their own policies and procedures to implement this advice.</p>
RELEVANT LEGISLATION	<p><u>Mental Health Act 2015</u></p> <p><u>Mental Health (Secure Facilities) Act 2016</u></p>

