

1990 - No. 424

MENTAL HEALTH ACT 1990 - REGULATION

(Mental Health Regulation 1990)

NEW SOUTH WALES



[Published in Gazette No. 82 of 29 June 1990]

HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Mental Health Act 1990, has been pleased to make the Regulation set forth hereunder.

PETER GOLLINS
Minister for Health.

Citation

1. This Regulation may be cited as the Mental Health Regulation 1990.

Commencement

2. This Regulation commences on the day on which the Mental Health Act 1990 commences.

Definitions

3. (1) In this Regulation:

"Registrar" means the Registrar of the Tribunal;

"the Act" means the Mental Health Act 1990.

(2) In this Regulation, a reference to a numbered Form is a reference to a Form of that number set out in Schedule 1.

Application for informal admission to hospital

- 4.** For the purposes of section 12 of the Act:
 - (a) an application for admission to a hospital as an informal patient may be in a form to the effect of Form 1; and
 - (b) an application for admission of a person under guardianship to a hospital as an informal patient may be in a form to the effect of Form 2.

Application for review of decision

- 5.** For the purposes of section 19 of the Act, an application for review of a decision of a medical officer may be in a form to the effect of Form 3.

Authorisation of medical examination

- 6.** For the purposes of section 27 of the Act, "appropriate person" includes a Justice of the Peace employed in the Local Courts Administration of the Attorney General's Department.

Statement of legal rights etc.

- 7.** For the purposes of section 30 of the Act, the prescribed form of advice to a medical superintendent is Form 4.

Further report by medical practitioner

- 8.** For the purposes of section 33 of the Act, the prescribed form of advice to a medical superintendent is Form 5.

Notice of appearance before Magistrate

- 9.** Notice under section 38 (3) of the Act is given in accordance with this Regulation if it is in a form to the effect of Form 6 and is served on the person or persons entitled to be given the notice.

Appearance before a Magistrate or the Tribunal

- 10.** In addition to the requirements of sections 39, 56, 58 and 191 of the Act, and of any regulations referred to in section 302 (2) (d) of the Act, the medical superintendent is to ensure that a person to be brought before a Magistrate or the Tribunal has, so far as is reasonably practicable, been supplied with shaving equipment or make up.

Form of summons (inquiry by Magistrate)

11. For the purposes of section 47 of the Act, the prescribed form of summons is Form 7.

Compliance with summons (inquiry by Magistrate)

12. If:

- (a) a summons to produce documents at an inquiry is issued under section 47 of the Act; and
- (b) the summons specifies a place at which the documents may be produced,

any of those documents produced at that place before commencement of the inquiry are to be taken to have been duly produced in compliance with the summons.

Fee for transcript of proceedings

13. For the purposes of sections 48, 167 and 279 of the Act, the prescribed fee for a transcription is \$6.00 per page.

Notice of temporary patient's right of appeal

14. For the purposes of section 55 of the Act, the prescribed form of statement is Form 8.

Determination by the Tribunal

15. For the purposes of section 57 of the Act, the prescribed form of determination is Form 9.

Further determination by the Tribunal

16. For the purposes of section 59 of the Act, the prescribed form of determination is Form 10.

Periodic medical examination of continued treatment patient

17. For the purposes of section 61 of the Act, each successive interval of 6 months following the date on which the patient became a continued treatment patient is a prescribed interval.

Notice of discharge

18. For the purposes of section 65 of the Act, a notice of discharge may be in a form to the effect of Form 11.

Appeal against refusal to discharge

19. (1) A patient may appeal under section 69 of the Act:

- (a) by serving on the medical superintendent of the hospital a notice in a form to the effect of Form 12; or
- (b) by declaring to the medical superintendent of the hospital a desire to appeal to the Tribunal.

(2) A person appointed by a patient may appeal under section 69 of the Act:

- (a) by lodging at the office of the Tribunal, or by serving on the Tribunal by post, a notice in a form to the effect of Form 13; or
- (b) by serving such a notice on the medical superintendent of the hospital; or
- (c) by declaring to the medical superintendent of the hospital, in the presence of the patient, that the patient wishes to appeal to the Tribunal.

(3) If an appeal is made by a declaration referred to in subclause (1)

(b) or (2) (c), the medical superintendent, or a medical practitioner nominated by the medical superintendent, is the prescribed person for the purposes of section 69 of the Act.

(4) If an appeal is made under subclause (2) (a), the Registrar must:

- (a) notify the medical superintendent accordingly, and
- (b) call on the medical superintendent to provide the report required by section 69 (3) of the Act.

Prescribed authority (forensic patients)

20. (1) For the purposes of sections 84, 85, 94, 96, 101, 102, 103, 105, 106 and 107 of the Act, the prescribed authority is:

- (a) the Governor, if the person is the subject of an order under section 25 or 39 of the Mental Health (Criminal Procedure) Act 1990; or
- (b) the Governor-General, if the person was detained by order of the Governor-General and the Governor-General is to make an

order for the conditional or unconditional release of the person;
or

(c) in any other case - the Minister.

(2) For the purposes of section 105 of the Act, the prescribed authority is the Minister.

(3) Section 16A of the Acts Interpretation Act 1901 of the Commonwealth applies to the references in this clause to the Governor-General in the same way as it applies to a reference to the Governor-General in an Act of the Commonwealth.

Transfer of prisoner to hospital

21. For the purposes of section 87 of the Act, the prescribed period is a period of 14 days from the making of the order under section 97 or 98 of the Act for the transfer to a hospital.

Notice of rights after refusal of treatment

22. For the purposes of section 142 of the Act, the prescribed notice of rights is a notice in a form to the effect of Form 14.

Variation or revocation of community orders

23. An application under section 148 of the Act for variation or revocation of a community counselling order or a community treatment order may be made in a form to the effect of Form 15.

Orders on appeal under s. 151

24. On the hearing of an appeal under section 151 of the Act:

(a) the Court, in the case of an appeal to the Court; or

(b) the Tribunal, in the case of an appeal to the Tribunal, may revoke, vary or confirm the order the subject of the appeal.

Procedure before consent to psychosurgery

25. For the purposes of section 155 (2) of the Act, Form 16 is the prescribed form.

Consent of Board to psychosurgery

26. (1) An application under section 157 of the Act for the consent of the Board to the performance of psychosurgery may be made in a form to the effect of Form 17.

(2) For the purposes of section 157 (2) (j) of the Act, the prescribed particulars are (in addition to those referred to in section 157 (2) (a)-(i) of the Act) the particulars that would be required to complete Form 17, including the contents of any documentation or reports to be attached to the Form.

Form of summons (Psychosurgery Review Board)

27. For the purposes of section 166 of the Act, the prescribed form of summons is Form 18.

Compliance with summons (Psychosurgery Review Board)

28. If:

- (a) a summons to produce documents at the hearing of an application for consent to perform psychosurgery is issued under section 166 of the Act; and
- (b) the summons specifies a place at which the documents may be produced,

any of those documents produced at that place before Commencement of the hearing are to be taken to have been duly produced in compliance with the summons.

Procedure before consent to electro-convulsive therapy

29. For the purposes of section 183 (2) of the Act, Form 19, Part 1, is the prescribed form.

Consent to electro-convulsive therapy (involuntary patients)

30. (1) For the purposes of section 185 of the Act, the prescribed form is Form 19, Part 2.

(2) For the purposes of section 188 of the Act, the prescribed form is Form 19, Part 3.

Notice of application to administer electro-convulsive therapy

31. If an application is made to the Tribunal under section 188 or 189 of the Act, notice under section 190 (1) of the Act is given in accordance with this Regulation if:

- (a) in the case of an application under section 188 - the notice is in a form to the effect of Form 20; or
- (b) in the case of an application under section 189 - the notice is in a form to the effect of Form 21.

Register of information relating to electro-convulsive therapy

32. The register to be kept under section 196 of the Act in relation to treatments by electro-convulsive therapy is to be a book in which pages to the effect of Form 22 are completed in relation to each patient or other person undergoing the treatment.

Notice to relative

33. Notice under section 205 (3) of the Act is given in accordance with this Regulation if it is in a form to the effect of Form 23 and is served personally or by post on the person entitled to be given the notice.

Application for licence for authorised hospital

34. For the purposes of section 211 of the Act, the prescribed form of application for a licence is Form 24 and the prescribed fee is \$50.

Licence for authorised hospital

35. For the purposes of section 212 of the Act, the prescribed form of licence is Form 25.

Annual statement and licence fee for authorised hospital

36. For the purposes of section 214 of the Act, the prescribed form of statement is Part 1 of Form 26 and the prescribed annual fee is \$50.

Fee for duplicate licence

37. For the purposes of section 215 of the Act, the prescribed fee for a duplicate licence is \$25.

Records of authorised hospital

38. For the purposes of section 221 of the Act, the records required to be kept, and the particulars required to be furnished, by the medical superintendent of an authorised hospital are records and particulars in a form to the effect of Part 2 of Form 26.

Form of summons (Mental Wealth Review Tribunal)

39. For the purposes of section 278 of the Act, the prescribed form of summons is Form 27.

Compliance with summons (Mental Health Review Tribunal)

40. If:

- (a) a summons to produce documents at a meeting of the Tribunal is issued under section 278 of the Act; and
- (b) the summons specifies a place at which the documents may be produced,

any of those documents produced at that place before the meeting commences are to be taken to have been duly produced in compliance with the summons.

Fee for copy of Tribunal determination

41. For the purposes of section 280 of the Act, the prescribed fee for a copy of a written instrument is \$6.00 per page.

Bath of office - assessors

42. For the purposes of section 282 of the Act, the prescribed form of oath to be taken by a person nominated for appointment as an assessor is Form 28.

Information as to follow-up care after discharge

43. The information required to be provided under section 293 of the Act in relation to follow-up care includes:

- (a) a description of patient support groups and community care groups operating in the vicinity of the hospital including a description of the services provided by the groups, and a method of contacting them; and
- (b) a description of any out-patient or other services available at the hospital which are available to the patient; and

- (c) a description of the purpose and method of obtaining community counselling orders and community treatment orders; and
- (d) a description of such other similar follow-up services as may be available in the vicinity of the hospital

Psychiatric admissions to be reported to the Tribunal

44. The medical superintendent for a hospital must, as soon as possible after each psychiatric admission to the hospital, report the admission to the Tribunal in a form to the effect of Form 29.

SCHEDULE 1 - FORMS

DEPARTMENT OF HEALTH, N.S.W.

(Cl. 3 (2))

(Cl. 4 (a))

FORM 1

MENTAL HEALTH ACT 1990

Section 12 (1)

**OPTIONAL WRITTEN APPLICATION FOR INFORMAL
ADMISSION OF PERSON TO HOSPITAL,**

I,

.....
(Name in full)

request that I be admitted to

.....
(Hospital)

for treatment as an informal patient.

Signature

Date

The above application was made apparently freely and voluntarily, in my presence.

Name of Witness

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Signature of Witness

Date.....

DEPARTMENT OF HEALTH, N.S.W.

FORM 2

(Cl. 4 (b))

MENTAL HEALTH ACT 1990

Section 12 (2)

OPTIONAL WRITTEN APPLICATION FOR INFORMAL ADMISSION TO
HOSPITAL OF A PERSON SUBJECT TO A GUARDIANSHIP ORDER
UNDER THE DISABILITY SERVICES AND GUARDIANSHIP ACT 1987

I,

.....

(Name in full)

being the appointed Guardian under Section 14 of the Disability Services and
Guardianship Act 1987 of

.....

(Name in full)

request that he/she be admitted to

.....

(Hospital)

for treatment as an informal patient.

This application is made

- * with the approval of the Guardianship Board as required by Section 12 (2) of
the Mental Health Act 1990
- * subject to the approval of the Guardianship Board, which will be sought on

.....
* delete whichever is inapplicable

Signature

Date

DEPARTMENT OF HEALTH, N.S.W.

FORM 3
MENTAL HEALTH ACT 1990

(Cl. 5)

Section 19 (1)

**APPLICATION FOR REVIEW OF DECISION
OF MEDICAL OFFICER**

To: The Medical Superintendent

.....
(Hospital)

I,

.....
(Name in full)

request that the decision:

- * not to admit me as an informal patient
- * not to admit for
(Name in full)

whom I am the appointed guardian under Section I4 of the Disability Services and Guardianship Act 1987

- * to discharge me as an informal patient
- * not to admit for
(Name in full)

whom I am the appointed guardian under Section 14 of the Disability Services and Guardianship Act 1987

at
(Hospital)

be reviewed.

* delete whichever is inapplicable

Signature

Date

DEPARTMENT OF HEALTH, N.S.W.

FORM 4
MENTAL HEALTH ACT 1990

(Cl. 7)

Section 30

STATEMENT OF LEGAL RIGHTS AND OTHER ENTITLEMENTS

The Mental Health Act 1990 gives persons who are involuntarily admitted to a hospital certain rights and entitlements of which you should be aware.

WHEN YOU ARE ADMITTED TO HOSPITAL

- * You must be examined by a medical practitioner within four hours of admission.
- * You can only be legally detained if the Medical Superintendent or a medical officer certifies under section 29 of the Act that you are a mentally ill or mentally disordered person.
- * As soon as practicable after the first examination a further examination will be carried out by another medical practitioner who (if the first examination was not carried out by a psychiatrist) will be a psychiatrist.
- * If the second examination results in you being found not to be a mentally ill or mentally disordered person you will be examined by another psychiatrist.
- * If the third examination results in you being found not to be a mentally ill or mentally disordered person, you must be released from the hospital.

IF YOU ARE CERTIFIED AS A MENTALLY DISORDERED PERSON

- * If you have been previously certified and detained in a hospital as a mentally disordered person, you should tell the person who informs you of your rights under the Act that you have been so certified.
- * YOU cannot be detained for a continuing period IN EXCESS OF 3 DAYS (not including weekends and public holidays).
- * You must be examined by a medical practitioner at least once every 24 hours (including weekends and public holidays).
- * If, on an examination, the Medical Superintendent believes you are not mentally disordered, or that other care of a less restrictive kind is appropriate, you must be released.
- * You cannot be detained as a mentally disordered person on more than 3 occasions in any one month.

IF YOU ARE CERTIFIED AS A MENTALLY ILL PERSON

- * The Medical Superintendent must bring you before a Magistrate as soon as practicable. The Magistrate will hear evidence, and make a ruling as to your condition and the most appropriate form of care.
- * *At the hearing* you are entitled to:
 - have legal representation, should you so wish;
 - appear at the hearing in street clothes;
 - be supplied with shaving equipment or make-up, in so far as is reasonably practicable and appropriate in the circumstances;
 - have an interpreter present if you consider that you can only communicate adequately in a non-English language;
 - have your relatives informed of the proceedings (you may also, if you wish, ask the Medical Superintendent not to inform your relatives);
 - apply to see (or allow your representative to see) copies of your medical records;
 - apply to have the matter heard in private.
- * In making a decision, the Magistrate will take into account any cultural factors relevant to your situation.
- * The proceedings will be recorded.
- * The Magistrate may adjourn the proceedings from time to time, for up to 14 days.
- * *If the Magistrate is satisfied you are not a mentally ill person*, you must be discharged from the hospital, but the Magistrate may defer the operation of the order for a period of up to 14 days. The Magistrate may also consider making you subject to a Community Counselling Order.
- * *If the Magistrate is satisfied you are a mentally ill person*:
 - the Magistrate may discharge you into the care of a relative or friend, if satisfied that you can be properly taken care of;
 - the Magistrate may consider making you subject to a Community Treatment Order;
 - you will only be detained further if no other care of a less restrictive kind is available or appropriate and ONLY FOR A PERIOD OF UP TO 3 MONTHS;
 - you can appeal against this decision to the Supreme Court (a notice setting out your rights of appeal will be given to you after the hearing).

IF YOU ARE DETAINED AS A TEMPORARY PATIENT

- * While you are detained, you have the right to receive visitors and mail.
- * Your case will automatically be reviewed by the Mental Health Review Tribunal if you remain in the hospital at the end of the period set by the Magistrate at the inquiry.

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* You (or a friend or relative) may at any time apply to the Medical Superintendent to be discharged. If the Medical Superintendent refuses, you have the right to appeal to the Mental Health Review Tribunal.

DEPARTMENT OF HEALTH, N.S.W.

FORM 5
MENTAL HEALTH ACT 1990

(Cl. 8)

Section 33 (1)

**FURTHER MEDICAL REPORT AS TO MENTAL STATE OF
A DETAINED PERSON**

I, the undersigned, a registered Medical Practitioner, on

..... personally examined
(Date) (patient's name)

a person detained at
(Hospital)

* In my opinion,
(patient's name)

is not a mentally ill or mentally disordered person.

* In my opinion,
(patient's name)

is a mentally ill or mentally disordered person.

* Delete whichever is inapplicable

The basis for my opinion is as follows:

(Reported behaviour of the patient)

.....
.....
.....
.....

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(Observations by me of the patient)

.....
.....
.....

(Conclusion)

.....
.....
.....

Name of Medical Practitioner:

Qualifications as a Psychiatrist (if applicable):

.....

.....
(Signature)

.....
(Date)

** This report may be continued on a separate annexure.

Note that this report is for the use of a legal tribunal and therefore should not be written in technical medical language.

DEPARTMENT OF HEALTH, N.S.W.

FORM 6
MENTAL HEALTH ACT 1990

(Cl. 9)

Section 38 (3)

INQUIRY - MENTAL HEALTH ACT 1990

Hospital
Address

NOTICE OF PROCEEDINGS BEFORE MAGISTRATE

Dear

I wish to advise you that
is at present a patient at this hospital under the provisions of the Mental Health Act 1990.

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On at approximately
a visiting Magistrate will hold an inquiry at
..... to consider whether or not further
detention for the purpose of treatment is warranted.

You are invited to attend this inquiry. With the permission of the patient and the Magistrate, any person at all may represent the patient. However the patient will be legally represented unless he/she decides that he/she does not want to be. Should it be necessary, a competent interpreter will be available to assist.

If the Magistrate considers further detention is warranted he/she will also consider whether or not the patient is able to manage his/her affairs. If the Magistrate considers that the patient is able to do so, then the patient will continue to do so. If the Magistrate is not satisfied that the patient can manage his/her affairs, then an order will be made that the Protective Commissioner manage the patient's affairs.

If the patient does not agree that his or her affairs should be managed by the Protective Commissioner, the patient may appeal to the Supreme Court.

If you have any questions, please feel free to discuss them with the patient's doctor or social worker. Contact may be made by telephoning

Yours faithfully,

Medical Superintendent

.....
(Date)

DEPARTMENT OF HEALTH, N.S.W.

FORM 7
MENTAL HEALTH ACT 1990

(Cl. 11)

Section 47 (1)

SUMMONS

Inquiry under Mental Health Act 1990

Hospital
Address

To:
.....
.....

A Magistrate will be holding an inquiry under the Mental Health Act 1990 in relation to
(patient's name)

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The inquiry will be held at on
(time) (date)
at the above address.

You are required:

- * (a) to attend the inquiry as a witness;
- * (b) to attend the inquiry to produce the following documents:
.....
.....

* delete if inapplicable.

You are entitled to receive reasonable costs, including any loss of earnings incurred through compliance with this summons.

Should you fail or refuse to comply with this summons properly served, you may be guilty of an offence under the Mental Health Act 1990.

If you are required to attend the hearing only to produce documents, it is sufficient compliance with this summons if those documents are delivered to at

.....
(address)

on or before

.....
(Signature)

.....
(Name)

DEPARTMENT OF HEALTH, N.S.W.

FORM 8

(Cl. 14)

MENTAL HEALTH ACT 1990

Section 55

NOTICE TO TEMPORARY PATIENT OF RIGHTS OF APPEAL

To
(patient's name)

On the you were ordered by
(date)

.....
a Magistrate, to be detained in a Hospital as a temporary patient, on the grounds that
you were a mentally ill person.

An additional order has been made that your estate be managed, on your behalf, by
the Protective Commissioner. *

* delete where inapplicable

The Magistrate's order that you be detained in the hospital means that you will stay
in the hospital for care and treatment until the medical superintendent decides that
you are well enough to leave. If you are not discharged, the Tribunal will review your
case at the end of the period set by the Magistrate at your Inquiry, and it has the
power to order your discharge from hospital.

YOU HAVE A RIGHT TO APPEAL SHOULD YOU WISH TO DO SO.

You may discuss your rights of appeal with a social worker, doctor, official visitor,
your own lawyer or the Mental Health Advocacy Service. The Mental Health
Advocacy Service provides free legal advice.

The ways in which you can appeal are set out below.

WAYS IN WHICH YOU CAN APPEAL AGAINST YOUR DETENTION

1. *You may ask the Medical Superintendent to discharge you from the hospital.*

It is better if such a request is made in a letter to the Medical Superintendent, but
it does not have to be (Section 67).

2. *You may ask the Medical Superintendent to reclassify you from being an involuntary patient to being a voluntary (informal) patient.*

The Medical Superintendent may take this step when he/she decides that you are likely to benefit from further care and treatment (Section 64).

3. *You may get a relative or friend to apply to the Medical Superintendent for your discharge, provided that he or she is prepared to take care of you.*

This application may be made orally or in writing (Section 68). It would be to your advantage to make such an application in writing.

4. *You may appeal to the Mental Health Review Tribunal if the Medical Superintendent refuses an application for your discharge or fails to determine such an application within 3 working days.*

If you wish to appeal, a form will be provided to you for the purpose (Section 69).

5. *You may appeal to the Supreme Court against any decision of the Mental Health Review Tribunal (Section 281).*

6. *Any person may bring an action in the Supreme Court for the discharge of a person, where there is evidence that the person is not a mentally ill or a mentally disordered person or where other care of a less restrictive kind is appropriate and reasonably available (Section 285).*

**WAYS IN WHICH YOU CAN APPEAL AGAINST THE DECISIONS
AS TO THE WAY THAT YOUR ESTATE WILL BE MANAGED DURING
YOUR DETENTION**

You may appeal to the Supreme Court of New South Wales. To do this you will need legal advice. Free legal advice is available from the Mental Health Advocacy Service.

You may also appeal to the Mental Health Review Tribunal, but only in circumstances where the Magistrate has refused to make an order allowing your estate to be managed by the Protective Commissioner.

DEPARTMENT OF HEALTH, N.S.W.

FORM 9

(Cl. 15)

MENTAL HEALTH ACT 1990

Section 57 (6)

NOTIFICATION OF TRIBUNAL DETERMINATION

.....
(patient's name)

was brought before the Mental Health Tribunal on
(date)
under the provisions of in Section 56 of the Mental Health Act 1990.

The Tribunal determined that the patient:

- * be DISCHARGED from hospital
- * be DETAINED as a temporary treatment patient from
..... until no later than for
(date) (date)
further observation or treatment or both
- * be classified as a continued treatment patient and detained in hospital for
further observation or treatment or both.

* delete whichever is inapplicable

Signed by the Members of the Tribunal on
(date)

.....
(Member)

.....
(Member)

.....
(Member)

DEPARTMENT OF HEALTH, N.S.W.

FORM 10

(Cl. 16)

MENTAL HEALTH ACT 1990

Section 59 (6)

FURTHER DETERMINATION BY TRIBUNAL

.....
(patient's name)

was seen by the Mental Health Review Tribunal on
(date)
pursuant to the provisions of Section 59 of the Mental Health Act 1990.

The Tribunal determined that the patient be:

- * discharged from the hospital
- * classified as a continued treatment patient.
- * delete whichever is inapplicable

Signed by the Members of the Tribunal on
(date)

.....
(Member)

.....
(Member)

.....
(Member)

DEPARTMENT OF HEALTH, N.S.W.

FORM 11
MENTAL HEALTH ACT 1990

(Cl. 18)

Section 65 (3)

Hospital

Address

NOTICE OF DISCHARGE OF PERSON UNDER GUARDIANSHIP

To.....
(full name of guardian)

Notice is hereby given that

.....
(name in full)

previously an informal patient at.....
(hospital)

will be discharged from this facility on

(date)

Signature

(Medical Superintendent)

Date

DEPARTMENT OF HEALTH, N.S.W.

FORM 12
MENTAL HEALTH ACT 1990

(Cl. 19 (1) (a))

Section 69 (1)

APPEAL BY PATIENT AGAINST REFUSAL TO DISCHARGE

The Registrar
Mental Health Review Tribunal

Having applied to the Medical Superintendent for discharge under section 67 (1) of the Mental Health Act 1990, I being:
(patient's name)

* a temporary patient
* a continued treatment patient at the
(name of hospital)

do hereby appeal to the Mental Health Review Tribunal against the Medical Superintendent's:

* refusal to discharge me
* failure to make a determination on my application for discharge within 3 working days after the making of the application.
* delete whichever is inapplicable

Signature Date

DEPARTMENT OF HEALTH, N.S.W.

FORM13

MENTAL HEALTH ACT 1990

(Cl 9 (1) (b))

Section 69 (1)

**APPEAL, BY A PERSON OTHER THAN THE PATIENT AGAINST
REFUSAL TO DISCHARGE A PATIENT**

Application having been made to the Medical Superintendent for discharge under Section 68 (1) of the Mental Health Act 1990 of

(patient's name)

who is:

- * a temporary patient
- * a continued treatment patient at the
(name of hospital)
- * the applicant for discharge of the patient

I, being:
(name of appellant)

- * the applicant for discharge of the patient
- * a person appointed by the patient

do hereby appeal to the Mental Health Review Tribunal against the Medical Superintendent's:

- * refusal to discharge the patient
- * failure to make a determination, within 3 working days after the application for discharge of the patient.
- * delete whichever is inapplicable

Signature Date

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DEPARTMENT OF HEALTH, N.S.W.

FORM 14
MENTAL HEALTH ACT 1990
Section 142 (a)

(Cl. 22)

RIGHTS TO APPLY FOR REVIEW

To
(patient's name)

On the you were ordered
(date)
under Section 139 or 141 of the Mental Health Act 1990 to be taken to a hospital
as a result of breaching your Community Treatment Order.

YOU HAVE A RIGHT TO APPEAL SHOULD YOU WISH TO DO SO.

You may discuss your rights of appeal with a social worker, doctor, official visitor
or your own lawyer, or with the Mental Health Advocacy Service whose legal advice
is free.

1. You may apply to the Mental Health Review Tribunal to have the Community Treatment Order varied or revoked.
2. You may lodge an appeal against the Order with the Supreme Court or the Mental Health Review Tribunal.
3. You may ask the Medical Superintendent to discharge you from the Hospital.
4. You may get a relative or friend to apply to the Medical Superintendent for your discharge, if the person is prepared to take care of you. This application may be made orally or in writing. It would be to your advantage to make such an application in writing.

DEPARTMENT OF HEALTH, N.S.W.

FORM 15

(Cl. 23)

MENTAL HEALTH ACT 1990

Section 148 (5)

APPLICATION FOR VARIATION/REVOCATION OF ORDER

The Registrar
Mental Health Review Tribunal

On
(date)

- * a Community Counselling Order
- * a Community Treatment Order

was made in relation to by:
(patient's name)

- * the Mental Health Tribunal
- * a Magistrate

I,
(name of applicant)

- * the person for whom the order was made
- * the psychiatric case manager implementing the order
- * an authorised applicant under Schedule 1 of the Act;

do hereby apply for the order to be

- * revoked
- * varied, as follows:

.....
.....

* delete whichever is inapplicable

Name

Signature

Date

DEPARTMENT OF HEALTH, N.S.W.

FORM 16

(Cl. 25)

MENTAL HEALTH ACT 1990

Section 155

INFORMATION AND CONSENT - PSYCHOSURGERY

PART 1 - CONSENT

I, consent to undergo
(patient's name)
the psychosurgery operation known as
(nature of surgery)

In giving this consent, I acknowledge that:

- (a) an explanation which I understand has been given to me, describing the operation and identifying and explaining any procedure which is not in regular use, or any procedure the results of which are difficult to predict;
- (b) the discomforts and risks of the treatment have been explained to me;
- (c) the benefits of the treatment have been explained to me;
- (d) any alternative treatments that are available and which may be of benefit to me have been explained to me;
- (e) an offer was made to me to answer any questions I had in relation to the procedures;
- (f) I have read and considered Part 2 of this form, dealing with disclosure of financial relationship.

I understand that:

- (a) I am free to refuse or to withdraw my consent, and discontinue the procedure or any part of it, at any time.
- (b) I have a right to legal advice and representation at any time during considerations relating to the performance of the surgery.

.....
(Signature)

.....
(Date)

PART 2 - DISCLOSURE OF FINANCIAL RELATIONSHIP

Item A

To be completed by person proposing the administration of the treatment.

(a) I declare that there is no financial relationship between me and the hospital or institution in which it is proposed to administer the treatment.

OR

(b) I declare that the following is a full disclosure of the financial relationship between me and the hospital or institution in which it is proposed to administer the treatment:

.....
.....

Signature.....

Item B

To be completed by the medical practitioner who proposes to administer the treatment (unless that medical practitioner is also the person who completed Item A)).

(a) I declare that there is no financial relationship between me and the hospital or institution in which it is proposed to administer the treatment.

OR

(b) I declare that the following is a full disclosure of the financial relationship between me and the hospital or institution in which it is proposed to administer the treatment:

.....
.....

Signature.....

CERTIFICATION BY WITNESS

I certify that all the matters dealt with in this Form have been orally explained to the person (in respect of whom treatment is proposed) in a language with which that person is familiar.

Signature Date

DEPARTMENT OF HEALTH, N.S.W.

FORM 17

(Cl. 26)

MENTAL HEALTH ACT 1990

Section 157 (1)

APPLICATION TO PERFORM PSYCHOSURGERY

Applicant's Name:

Applicant's Address:

Patient's Name:

Patient's Address:

Patient's Age:

Patient's Sex

Name of Nearest Relative:

Address of Nearest Relative:

Describe Nature of the Psychosurgery to be performed

.....
.....
.....

Clinical Indications for Psychosurgery

.....
.....

(FULL DOCUMENTATION/CLINICAL REPORTS IN RELATION TO THIS APPLICATION SHOULD BE ATTACHED.)

Name(s) of person(s) proposing to perform the psychosurgery.

.....
.....

Name of hospital or institution in which it is proposed to perform the psychosurgery

.....

Has:

(a) a faire explanation been made to the patient in a language with which the patient is familiar, of the techniques or procedures to be followed, including an identification and explanation of any such technique or procedure about which there is not sufficient data to recommend it as a recognised treatment or to predict accurately the outcome of its performance? YES/NO

- (b) a full description been given to the patient of the attendant discomforts and risks, if any? YES/NO
- (c) a full description been given to the patient of the benefits, if any, to be expected? YES/NO
- (d) a full disclosure been made to the patient of appropriate alternative treatments, if any, that would be advantageous for the patient? YES/NO
- (e) an offer been made to the patient to answer any inquiries concerning the procedures or any part of them? YES/NO
- (f) notice been given to the patient that the patient is free to refuse or to withdraw his or her consent and to discontinue the procedures or any of them at any time? YES/NO
- (g) a full disclosure been made to the patient of any financial relationship between the person by whom consent for psychosurgery is sought or the medical practitioner who proposes to perform the psychosurgery, or both, and the hospital or institution in which it is proposed to perform the psychosurgery? YES/NO
- (h) notice been given to the patient that the patient has the right to legal advice and representation at any time during considerations relating to the performance of psychosurgery on the patient. YES/NO

IN YOUR OPINION, HAS THE PATIENT UNDERSTOOD THE EXPLANATIONS ABOUT THE TREATMENT YOU HAVE GIVEN? YES/NO

IN YOUR OPINION, IS THE PATIENT CAPABLE OF GIVING INFORMED CONSENT? YES/NO

IN YOUR OPINION, HAS THE PATIENT GIVEN INFORMED CONSENT? YES/NO

OR

ARE YOU IN DOUBT THAT THE PATIENT HAS GIVEN INFORMED CONSENT? YES/NO

Signature

Date

DEPARTMENT OF HEALTH, N.S.W.

FORM 18

(Cl. 27)

MENTAL HEALTH ACT 1990
Section 166 (1)

SUMMONS

Psychosurgery Review Board

To:

The Psychosurgery Review Board will be hearing an application to perform psychosurgery in relation to
(name of patient)

The hearing will take place at on
(time) (date)
at
(address)

You are required

- * to attend the hearing as a witness;
- * to attend the hearing and produce the following documents:

.....
.....
.....

* delete if inapplicable

You are entitled to receive reasonable costs, including any loss of earnings incurred through compliance with this summons.

Should you fail or refuse to comply with this summons, properly served, you may be guilty of an offence under the Mental Health Act 1990.

If you are required to attend the hearing only to produce documents, it is sufficient compliance with this summons if those documents are delivered to:

..... at
on or before

Signature

President/Deputy President
Psychosurgery Review Board

DEPARTMENT OF HEALTH, N.S.W.

FORM 19

(Cl. 29, 30)

MENTAL HEALTH ACT 1990

Sections 183, 185, 188

INFORMATION AND CONSENT - ELECTRO CONVULSIVE THERAPY

PART 1

INFORMATION TO CONSIDER BEFORE SIGNING

The treatment is recommended where the alternative forms of treatment have either not had the desired result or would work much too slowly to be effective in a particular case.

The treatment will take the following form:

- (a) You will be given a brief general anaesthetic. This involves giving a drug to relax the muscles. The anaesthetist will generally give the anaesthetic by means of intravenous injection.
- (b) While the patient is anaesthetised, another medical practitioner will use medical apparatus designed to pass a modified electrical current for a few seconds through the brain, with the intention of affecting those parts concerned with emotion and thought.
- (c) While the current is passing, the anaesthetic will prevent the patient from feeling anything and also the patient's body from moving more than slightly.
- (d) Treatment will be given 2 or 3 times a week.
- (e) A course of treatment will generally involve up to 12 treatments but, on some occasions, more treatments will be required. Any queries you have in relation to the number of treatments you may need can be raised with your doctor.

Possible benefits of treatment:

Benefits depend upon the symptoms of the conditions for which treatment is given. Relief may be obtained from symptoms of depression, agitation and insomnia.

Possible alternative treatments:

Other treatments may also be suitable for your condition. Any queries you have in relation to these can be discussed with your doctor.

Possible complications of treatment:

Some patients notice a difficulty with their memory for recent events which almost invariably clears up within a month of receiving the last treatment. Some patients experience a headache or a brief period of confusion, or both, on awakening after the anaesthetic. Otherwise, because the treatment and anaesthetic are very brief and

present no significant stress to the body, serious complications are uncommon. All general anaesthetics carry some risk.

Consent to treatment

This treatment cannot be carried out without your consent (see below), unless a life-saving situation arises, or after a full hearing before the Mental Health Review Tribunal. Before giving this consent you may ask your Doctor any questions relating to the techniques or procedures to be followed. You may also withdraw your consent and discontinue this treatment at any time.

Legal Advice:

You also have the right to get legal advice and medical advice before you give your consent.

DISCLOSURE OF FINANCIAL RELATIONSHIP

Item A

To be completed by person proposing the administration of the treatment.

(a) I declare that there is no financial relationship between me and the hospital or institution in which it is proposed to administer the treatment.

OR

(b) I declare that the following is a full disclosure of the financial relationship between me and the hospital or institution in which it is proposed to administer the treatment:

.....

.....

Signature

Name

Item B

To be completed by the medical practitioner who proposes to administer the treatment (unless that medical practitioner is also the person who completed Item A).

(a) I declare that there is no financial relationship between me and the hospital or institution in which it is proposed to administer the treatment.

(b) I declare that the following is a full disclosure of the financial relationship between me and the hospital or institution in which it is proposed to administer the treatment:

.....

.....

Signature

Name

PART 2

CONSENT TO ELECTRO-CONVULSIVE THERAPY

I,
(Name in full)

consent to being treated with a course of electro-convulsive therapy.

I acknowledge that I have read/have had read to me Part 1 of this Form, and that I understand the information it contains.

I understand that I am free at any time to change my mind and withdraw from the course of treatment if I so desire.

Signature Date

PART 3

CONSENT TO ELECTRO-CONVULSIVE THERAPY INVOLUNTARY PATIENTS

I,
(Name in full)

consent to being treated with electro-convulsive therapy.

I acknowledge that I have read/have had read to me Part 1 of his Form, and that I understand the information it contains.

I understand that I am free at any time to change my mind and withdraw from any course of treatment if I so desire.

I understand that my consent will also be reviewed by the Mental Health Review Tribunal.

Signature Date

CERTIFICATION BY WITNESS

I certify that all matters dealt with in this Form have been orally explained to the person in respect of whom treatment is proposed and have been so explained in a language with which that person is familiar.

Signature Date

DEPARTMENT OF HEALTH, N.S.W.

FORM 20
MENTAL HEALTH ACT 1990

(Cl. 31 (a))

Section 190 (1)

**NOTIFICATION OF CONSENT TO ELECTRO-CONVULSIVE
THERAPY**

Dear

It is my opinion as Medical Superintendent of
(Name of hospital)
that it is desirable and in the best interests of
.....
(patient's full name)
for him/her to undergo a course of electro-convulsive therapy. He/she is capable of
giving consent, and has consented.

In such cases I am required by law to notify you in writing that an application is being
made to the Mental Health Review Tribunal to determine the validity of this consent.

If you wish to discuss this matter further please contact:

..... on
(name) (telephone number)

Yours faithfully,

Medical Superintendent

DEPARTMENT OF HEALTH, N.S.W.

FORM 21
(Cl. 31 (b))
MENTAL HEALTH ACT 1990

Section 190 (1)

**NOTIFICATION TO RELATIVE WHERE PATIENT HAS NOT
CONSENTED TO ELECTRO-CONVULSIVE THERAPY**

Dear

It is my opinion as Medical Superintendent of
(Name of hospital)
that it is desirable and in the best interests of
.....
(patient's full name)
for him/her to undergo a course of electro-convulsive therapy.

However, he/she is:

- * Incapable of giving that consent.
- * Capable of giving that consent but has refused to do so.
- * Capable of giving that consent but has neither refused nor consented.

* delete whichever is inapplicable

In such cases I am required by law to notify you in writing that an application is being made to the Mental Health Review Tribunal to determine whether the treatment is necessary or desirable for the safety or welfare of the patient.

If you wish to discuss this matter further please contact

..... on
(name) (telephone number)

Yours faithfully,

Medical Superintendent

(c1.32)

FORM

DEPARTMENT OF HEALTH, N.S.W.

E.C.T. RECORD FORM

MENTAL HEALTH ACT 1990 - SECTION 196(1) HOS

HOSPITAL

DIAGNOSIS: _____	NAME: _____	AGE: _____
MENTAL COMMITMENTS: _____	DOCTOR: _____	WEIGHT: _____
SENSITIVITIES: _____	CURRENT MEDICATION: _____	B.P.: _____
PREVIOUS ANAESTHETIC PROBLEMS: _____		

POST E.C.T. REVIEW (to be completed by reviewing practitioner prior to subsequent administration of E.C.T.)

DATE E.C.T. ADMINISTERED	DATE OF REVIEW	REMARKS	SIGNATURE
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			

DEPARTMENT OF HEALTH, N.S.W.

FORM 23

(Cl. 33)

MENTAL HEALTH ACT 1990

Section 205 (3)

NOTIFICATION TO RELATIVE

Dear

It is my opinion as Medical Superintendent of (Name of hospital)

that it is desirable and in the best interests of

..... (patient's full name)

who is involuntarily detained in the hospital in accordance with the Mental Health Act 1990, for him/her to undergo a surgical operation for (lay description of condition)

This operation is called a

(medical name)

To perform the surgery I am required by law to obtain the patient's consent.

However he/she is:

- * Incapable of giving that consent.
- * Capable of giving that consent but has refused to do so.
- * Capable of giving that consent but has neither refused nor consented.
- * delete whichever is inapplicable

In such cases I am required by law to notify you in writing that it is my intention to obtain consent on the patient's behalf from the Mental Health Review Tribunal.

If you wish to discuss this matter further please contact

..... on
(name) (telephone number)

Yours faithfully,

Medical Superintendent

DEPARTMENT OF HEALTH, N.S.W.

FORM 24

(Cl. 34)

MENTAL HEALTH ACT 1990

Section 211 (2)

**FORM OF APPLICATION FOR LICENCE TO KEEP
AN AUTHORISED HOSPITAL**

I, the undersigned, hereby make application for the grant of a licence to keep an authorised hospital to be known as:

.....

for the admission and treatment of not more than
patients under Part 1, Chapter 8 of the Mental Health Act 1990.

If the application is approved, Dr a registered Medical Practitioner (or a deputy):

- * will be resident at the hospital
- * will attend at the hospital

as required by section 219 of the Mental Health Act 1990.

A plan of the premises referred to in this application is forwarded herewith.

* delete whichever is inapplicable

Name of Applicant

Signature

Address

.....

Date

DEPARTMENT OF HEALTH, N.S.W.

FORM 25

(Cl. 35)

MENTAL HEALTH ACT 1990

Section 212 (2) (c)

LICENCE TO KEEP AN AUTHORISED HOSPITAL

This licence to keep an authorised hospital for the admission and treatment of not more than patients under the Mental Health Act 1990 is issued to

.....

(Name of licensee)

Dated this day of 19

.....

Director-General
Department of Health

DEPARTMENT OF HEALTH, N.S.W.

FORM 26

(Cl. 36, 37)

MENTAL HEALTH ACT 1990

Sections 214 (a), 221

AUTHORISED HOSPITAL - ANNUAL STATEMENT

PART 1

GENERAL INFORMATION FOR DEPARTMENTAL ANNUAL REPORT

NAME OF LICENSEE

ADDRESS OF LICENSEE

NAME OF ESTABLISHMENT:

ADDRESS OF ESTABLISHMENT:

1990 - No. 424

AUTHORISED BED CAPACITY:

NUMBER OF PATIENTS IN RESIDENCE

CONTINUING

TEMPORARY

INFORMAL

PART 2

INFORMATION TO BE RETAINED PURSUANT TO SECTION 221

A. *ADMISSIONS* (in 12 months to 31 May preceding last day for lodging this statement)

Informal

Involuntary

Method of Admission:

- * By order of Magistrate (s. 51 (3))
- * By order of authorised officer (s. 78 (1))
- * By agreement of Medical Superintendent (s. 78 (2))

* delete whichever is inapplicable

3. Reasons for Admission

Mentally Ill

Mentally Disordered

1990 - No. 424

B. DISCHARGE/REMOVAL (in 12 months to 31 May preceding last day for lodging this statement)

1. Unconditional Discharge
2. Discharge Subject to Community
Treatment Order
3. Removal to Prison
4. Deaths

C. ABSENCES

With Leave

Without Leave

D. TREATMENTS

1. Electro-Convulsive Therapy
 - (a) with Consent of Patient
 - (b) without Consent, on Tribunal Determination
 - (c) emergency treatments
2. Psychosurgery
3. Other Treatments (please specify)

.....

.....

The annual licence fee of \$ is enclosed.

Signature

Date

DEPARTMENT OF HEALTH, N.S.W.

FORM 27

(Cl. 39)

MENTAL HEALTH ACT 1990

Section 278 (I)

SUMMONS

Mental Health Review Tribunal

To:

.....

The Mental Health Review Tribunal will be hearing matters in relation to

.....

(name of patient)

The hearing will take place at on

(time) (date)

at

(address)

You are required:

- * to attend the hearing as a witness;
- * to attend the hearing and produce the following documents:

.....

.....

* delete if inapplicable

You are entitled to receive reasonable costs, including any loss of earnings incurred through compliance with this summons.

Should you fail or refuse to comply with this summons, properly served, you may be guilty of an offence under the Mental Health Act 1990.

If you are required to attend the hearing only to produce documents, it is sufficient compliance with this summons if those documents are delivered to
at on or before

Signature

President/Deputy President
Mental Health Review Tribunal

DEPARTMENT OF HEALTH, N.S.W.

FORM 28

(Cl. 42)

MENTAL HEALTH ACT 1990

Section 282 (2) (b)

OATH OF ASSESSOR

I, do swear that I will well and truly advise and assist, without fear or favour, affection or ill will, the Supreme Court of New South Wales as an assessor in any matter coming before that Court pursuant to the provisions of the Mental Health Act 1990.

DEPARTMENT OF HEALTH, N.S.W.

FORM 29

(Cl. 44)

MENTAL HEALTH ACT 1990

Section 302 (2) (m)

PSYCHIATRIC ADMISSIONS

(Advice to Mental Health Review Tribunal)

This form is to be filled out in relation to any person taken to a hospital pursuant to Part 4 Chapter 2 of the Mental Health Act 1990.

1. DETAILS

Hospital Medical Record No.

Date taken to Hospital

Given Names Surname

Date of birth

If interpreter required, state language

2. METHOD OF REFERRAL

- * Cert. of Medical Practitioner S. 21
- * Request by Relative/Friend S. 23
- * Apprehension by Police S. 24
- * Order under Crimes Act S. 25
- * Welfare Officer S. 26
- * Authorised Person's Order S. 27
- * Breach Community Treatment Order S. 142

* delete if inapplicable

3. ADMISSION YES [] NO []

4. CLASSIFICATION INFORMAL [] IN VOLUNTARY []

* Delete if inapplicable

Date of Magistrate's Hearing

Magistrate's Decision

Form completed by

Date:.....

This form is to be completed for each person taken to a hospital for involuntary admission and is to be returned to the Tribunal by post within 24 hours of the occurrence of the earliest of the following events:

- (a) refusal to admit;
- (b) discharge (give date);
- (c) reclassification as informal;
- (d) at conclusion of Magistrate's hearing.

This form may also be used to advise the Tribunal about informal patients who have been in hospital for at least ten months.

NOTE

TABLE OF PROVISIONS

1. Citation
2. Commencement
3. Definitions
4. Application for informal admission to hospital
5. Application for review of decision
6. Authorisation of medical examination
7. Statement of legal rights etc.
8. Further report by medical practitioner
9. Notice of appearance before Magistrate
10. Appearance before a Magistrate or the Tribunal
11. Form of summons (inquiry by Magistrate)
12. Compliance with summons (inquiry by Magistrate)
13. Fee for transcript of proceedings
14. Notice of temporary patient's right of appeal
15. Determination by the Tribunal
16. Further determination by the Tribunal
17. Periodic medical examination of continued treatment patient
18. Notice of discharge
19. Appeal against refusal to discharge
20. Prescribed authority (forensic patients)
21. Transfer of prisoner to hospital
22. Notice of rights after refusal of treatment
23. Variation or revocation of community order
24. Orders on appeal under s. 151
25. Procedure before consent to psychosurgery
26. Consent of Board to psychosurgery
27. Form of summons (Psychosurgery Review Board)
28. Compliance with summons (Psychosurgery Review Board)
29. Procedure before consent to electro-convulsive therapy
30. Consent to electro-convulsive therapy (involuntary patients)
31. Notice of application to administer electro-convulsive therapy
32. Register of information relating to electro-convulsive therapy
33. Notice to relative
34. Application for licence for authorised hospital
35. Licence for authorised hospital
36. Annual statement and licence fee for authorised hospital
37. Fee for duplicate licence
38. Records of authorised hospital
39. Form of summons (Mental Health Review Tribunal)
40. Compliance with summons (Mental Health Review Tribunal)
41. Fee for copy of Tribunal determination

42. Bath of office - assessors
43. Information as to follow-up care after discharge
44. Psychiatric admissions to be reported to the Tribunal.

SCHEDEULE 1 - FORMS

EXPLANATORY NOTE

The object of this Regulation is to make provision for matters necessary to enable the Mental Health Act 1990 to be commenced, including:

- (a) the forms to be used in connection with the Act; and
- (b) fees to be paid under the Act; and
- (c) the initiation of appeals; and
- (d) the release of forensic patients; and
- (e) the production of documents in response to a summons; and
- (f) the provision of information relating to care available after discharge from hospital.
