



New South Wales

Mental Health Amendment (Prescribed Forms) Regulation 2016

under the

Mental Health Act 2007

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Mental Health Act 2007*.

PRU GOWARD, MP
Minister for Mental Health

Explanatory note

The object of this Regulation is to amend the *Mental Health Regulation 2013* to replace the prescribed form that relates to examinations that must be conducted on a person who has been detained in a mental health facility. The amended form enables the results of examinations conducted by a medical practitioner using an audio visual link, or by an accredited person in person, to be recorded in the prescribed form.

This Regulation is made under the *Mental Health Act 2007*, including sections 27 (2) and 196 (the general regulation-making power).

Mental Health Amendment (Prescribed Forms) Regulation 2016

under the

Mental Health Act 2007

1 Name of Regulation

This Regulation is the *Mental Health Amendment (Prescribed Forms) Regulation 2016*.

2 Commencement

This Regulation commences on 9 March 2017 and is required to be published on the NSW legislation website.

Schedule 1 Amendment of Mental Health Regulation 2013

[1] Clause 4 Clinical report as to mental state of detained person

Insert at the end of clause 4 (b):

, and

- (c) section 27A of the Act, the certificate of the medical practitioner or the accredited person may be in the form set out in Form 1.

[2] Schedule 1 Forms

Omit Form 1. Insert instead:

Form 1

(Clause 4)

(Mental Health Act 2007, section 27 or 27A)

Clinical report as to mental state of a detained person

This report is made as:

(tick whichever is appropriate)

- a certificate of the opinion of an authorised medical officer after examination of a person under section 27 (1) (a) of the Act (initial examination),
- advice by a medical practitioner to an authorised medical officer under section 27 (1) (b) or (c) of the Act (further examination).

OR, if it is not reasonably practicable for an authorised medical officer of a mental health facility or other medical practitioner to personally examine a person or observe the person's condition for the purpose of determining (under section 27 of the Act) whether the person is a mentally ill person or a mentally disordered person:

This report is made as:

(tick whichever is appropriate)

- a certificate of the opinion of a medical practitioner after examination of a person using an audio visual link in accordance with section 27A (1) (a) of the Act,
- a certificate of the opinion of an accredited person authorised by the medical superintendent of [*name of mental health facility*] to personally examine a person in accordance with section 27A (1) (b) of the Act.

Note 1. For examinations under section 27A of the Act, an accredited person and a medical practitioner who is not a psychiatrist must, if it is reasonably practicable to do so, seek the advice of a psychiatrist before making a determination as to whether the person is a mentally ill person or a mentally disordered person (see section 27A (4) of the Act).

Note 2. A medical practitioner must not carry out an examination or observation using an audio visual link unless the medical practitioner is satisfied that the examination or observation can be carried out in those circumstances with sufficient skill and care so as to form the required opinion about the person (see section 27A (3) of the Act).

I, the undersigned, a registered medical practitioner/an accredited person, on [*date*] examined by audio visual link/personally examined [*patient's name*] a person detained at [*name of mental health facility*].

In my opinion, [*patient's name*]:

(tick the one box that is appropriate)

- is not a mentally ill or mentally disordered person,
- is a mentally ill person,
- is a mentally disordered person.

The basis for my opinion is as follows:

(Reported behaviour of the patient)

[*list behaviour(s)*]

(This report may be continued on a separate page, if necessary)

(Observations by me of the patient)

[list observations]

(Conclusion)

[insert conclusion]

Name of registered medical practitioner/accredited person:

Qualifications as a psychiatrist (if applicable):

[Signature]

[Date]

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