NSW GOVERNMENT

Accredited Person's Handbook

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Foreword

The Accredited Person's Program, introduced in New South Wales in 2003, has proven to be a significant step towards ensuring that people across New South Wales have access to prompt assessment and treatment for their mental illness.

The training for accredited persons is provided by HETI Mental Health Portfolio and is funded by the Mental Health Branch of the NSW Ministry of Health.

This updated Handbook provides a clear explanation of the legal and clinical framework within which accredited persons exercise their duties and responsibilities. It is a valuable reference tool for all clinicians making decisions under the *Mental Health Act 2007*.

Dr Susan Grimes
Director Mental Health and Higher Education
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Introduction

The role of the accredited person was first introduced in NSW in 2003. It enabled senior mental health clinicians, who were not doctors, to make an initial decision about a person's need for involuntary admission under the *NSW Mental Health Act 2007* (the 'Act').

Following amendments to the Act enacted in 2015, two important changes were made to the scope of the accredited person's role. Firstly, an accredited person can now conduct a Schedule 1 assessment via audio visual link (s19A). Secondly, an accredited person can now conduct the first Form 1 assessment where a person has already been detained in a Declared Mental Health Facility. (s27A).

As the circumstances surrounding these decisions are often complex and challenging, it is important that those responsible possess a high level of clinical experience and a thorough understanding of the legal requirements that regulate their role.

This Handbook has been revised in line with these changes to the Act, to assist those who have been appointed as accredited persons.

It sets out the general principles that underpin the Act, and reviews the key sections that define the accredited person's role. It summarises the clinical issues to be weighed during an assessment, and highlights some of the additional considerations that are required when dealing with those whose needs are more complex because of their age or cultural background.

Finally this Handbook addresses the important issue of working effectively with the police and paramedics when their assistance is required in transporting a person to hospital.

On behalf of HETI Mental Health Portfolio, we would like to thank all those who assisted in the development of this Handbook, and those that have been involved in the development and the delivery of the training program. In particular we would like to thank Pamela Verrall who prepared the original Accredited Person's Handbook upon which this edition is based, and who has also updated this 2019 version of the document.

We would also like to thank those involved in the development and delivery of the training: Martin Collis, Senior Clinical Advisor, Mental Health Intervention Team, NSW Police and Kevin McLaughlin, Director Mental Health, NSW Ambulance. It is the contribution of these professionals and experts in their field which form the basis of the Handbook's contents.

We hope that the material presented in the Handbook will assist those who have been accredited under s136 of the Act by the Secretary of the NSW Ministry of Health to perform their role in a way that enables the rights, dignity and self-respect of all those involved in the process to be maintained.

Rhonda Loftus
Executive Director
HETI Mental Health Portfolio

Chapter 1

OVERVIEW

Accredited persons are suitably qualified senior mental health practitioners, who are not doctors, who are specifically empowered to write Schedule 1 Certificates and Form 1s. Accredited persons are appointed by the Secretary of the Ministry of Health, or their delegate, under s136 of the *Mental Health Act 2007* (the 'Act').

The Schedule 1 Certificate, completed by either a medical practitioner or an accredited person, enables an individual to be taken to a declared mental health facility, against their will if necessary, for the purpose of an assessment. Schedule 1 Certificates provide the legal foundation for the majority of involuntary admissions in NSW.

Following the amendments to the Act that came into operation in 2015, accredited persons were given additional powers, in particular circumstances, to conduct an assessment of a person detained in a declared mental health facility (section 27A). Form 1 in the Mental Health Regulation 2013 has been amended to incorporate this change. As such, accredited persons should document the results of this assessment on Form 1.

Following amendments to the Act that commenced on 30 June 2022, accredited persons can now complete a Form 1 via audio-visual link (AVL) under section 27A.

Accreditation applies to an individual staff member employed within a public health organisation (PHO), generally a Local Health District (LHD) or Specialty Health Network (SHN). Each accredited person is subject to the relevant policies and procedures specific to their PHO. In addition, accreditation is linked to the specific PHO(s) named on an accredited person's certificate of appointment. Accredited persons cannot practise within any PHO unless formally appointed therein by the Ministry of Health.

1 The results of this assessment were initially documented on a Form 27A. The amendments to Form 1 came into force on 9 March 2017, therefore accredited persons should now document the results of their assessment on a Form 1.

Chapter 2

GENERAL PRINCIPLES OF THE *MENTAL HEALTH ACT 2007*

The Act makes provisions in relation to the care and treatment of mentally ill and mentally disordered persons, and other matters relating to mental health. While the Act contains certain provisions for the care of those who are admitted voluntarily to declared mental health facilities (voluntary patients), its primary concern is with the rights and procedures that pertain to those who are detained in a declared mental health facility or otherwise treated against their wishes.

OBJECTS OF THE ACT

Section 3 of the Act specifies that the objects of this Act are:

- to provide for the care and treatment of, and to promote the recovery of, persons who are mentally ill or mentally disordered; and
- to facilitate the care and treatment of those persons through community care facilities; and
- to facilitate the provision of hospital care for those persons on a voluntary basis, and where appropriate and, in a limited number of situations, on an involuntary basis; and
- while protecting the civil rights of those persons, and giving an opportunity for those persons to have access to appropriate care, where necessary, to provide for treatment for their own protection or the protection of others; and
- to facilitate the involvement of those persons, and persons caring for them, in decisions involving appropriate care and treatment.

PRINCIPLES FOR CARE AND TREATMENT

Section 68 of the Act sets out the following principles of care and treatment for people with a mental illness or mental disorder:

- people should receive the best possible care and treatment in the least restrictive environment enabling the care and treatment to be effectively given;
- care and treatment should be timely, high quality and in line with professionally accepted standards;
- care and treatment should be designed to assist people, wherever possible, to live, work, and participate in the community;
- medication should meet the health needs of the person and be given for therapeutic or diagnostic needs and not as a punishment or for the convenience of others;
- people should be given information about their treatment that includes the effects of treatment and any alternatives, and should be supported to pursue their recovery;
- any restriction of liberty and interference with the rights, dignity and self-respect of a person is to be kept to the minimum necessary in the circumstances;
- each person's particular needs should be considered including those related to age, gender, religion, culture, language, disability or sexuality:
  1. people under the age of 18 years should receive developmentally appropriate services;
  2. Aboriginal people and Torres Strait Islanders should have their cultural and spiritual beliefs and practices considered;
- people should be involved in the development of treatment and recovery plans where practicable, and should have their views considered:
  1. every effort should be made to gain the person's consent when developing their treatment and recovery plans, to monitor their capacity to consent and to support those who may lack the capacity to consent to understand these plans;
- people should be informed of their rights and entitlements under the Act, in a language and manner that they are most likely to understand;
- the role of carers and their rights to be kept informed, be involved, and have the information they provide considered, should be given effect.

PROCESS OF INVOLUNTARY ADMISSION

The Act provides a number of ways in which the process of involuntary admission can be lawfully initiated:

- on a mental health certificate given by a medical practitioner or accredited person (s19 and 19A);
- after being brought to the facility by an ambulance officer (paramedic) (s20);
- after being apprehended by a police officer (s22);
- after an order for an examination or observation by a medical practitioner or accredited person authorised by a Magistrate (s23);
- on the order of a Magistrate or bail officer (s24);
- after a transfer from another health facility (s25);
- on a written request made to the authorised medical officer by a designated carer, principal care provider, relative or friend of the person (s26).

Between July 2016 and June 2017 20,568 people were taken to a mental health facility under a provision of the Mental Health Act. Most of these (54%) were initiated by the certificate of a doctor (or accredited person), 17% by police, and 8% were initiated at the request of a carer, relative or friend. This resulted in 18,119 admissions with 62% detained as 'mentally ill', 27% as 'mentally disordered' and 11% were admitted as voluntary patients. Regardless of the way in which a person is brought to a declared mental health facility, their continued detention depends on a further two (and in some cases three) examinations.

The first examination must be performed either by an authorised medical officer (s27), or by a medical practitioner, or by an accredited person who has been authorised by the medical superintendent of the mental health facility (s27A). The examination must occur as soon as practicable, within a maximum of 12 hours (s27(1)(a)) from the time the person arrives at the facility or after the person is detained.

If as a result of this first examination the person is found to be either 'mentally ill' or 'mentally disordered' then a second examination must occur 'as soon as possible' and must be conducted by a psychiatrist if the first examination was not (s27(1)(b)). Where the first examination finds that the person is neither 'mentally ill' nor 'mentally disordered', then the person must be discharged.

The results of the first examination must be documented on a Form 1: Clinical Report as to Mental State of a Detained Person.

A third examination is required where the second doctor finds the person neither 'mentally ill' nor 'mentally disordered'. A more detailed explanation of the examination sequence can be found in the Mental Health Act Guide Book: https://www.health.nsw.gov.au/mentalhealth/resources/Pages/publications.aspx

These procedures have been established to ensure that people are both thoroughly assessed and not detained unnecessarily. However, the complexity and inevitable delays involved at each stage can heighten the person's confusion and distress. Each accredited person therefore needs to be:

- conversant with the admission protocols of the declared mental health facilities in their area;
- able to liaise with the unit to minimise admission difficulties;
- able to explain the process simply to the person and to relevant carers.

Once a person has gone through the examination procedures and been found to be a 'mentally ill person' they must be brought before the Mental Health Review Tribunal (the 'Tribunal') for a mental health inquiry as soon as practicable (s27d). Part of the Tribunal's role at these hearings is to examine the Schedule 1 (or other legal document), and the Form 1s, to ensure that the correct procedures have been followed and that the person's detention is valid. Particular care must therefore be taken by accredited persons in completing both the Schedule 1 and the Form 1, as a defective document can invalidate a person's involuntary admission.

KEY DEFINITIONS

The Act contains two key definitions that underpin the decisions of an accredited person. These are the definitions of:

- a mentally ill person;
- a mentally disordered person.

WHO IS A MENTALLY ILL PERSON UNDER THE ACT?

Definition (s14)

A mentally ill person is someone who is suffering from a mental illness and owing to that illness there are reasonable grounds for believing that care, treatment or control of the person is necessary:

- for the person's own protection from serious harm; or
- for the protection of others from serious harm.

In considering whether someone is a mentally ill person, their continuing condition, including any likely deterioration in their condition, is to be taken into account.

WHAT IS A MENTAL ILLNESS FOR THE PURPOSE OF THE ACT? (S4)

Mental illness for the purposes of the Act means a condition that seriously impairs, either temporarily or permanently the mental functioning of a person, and is characterised by the presence of any one or more of the following symptoms:

- delusions;
- hallucinations;
- serious disorder of thought form;
- severe disturbance of mood;
- sustained or repeated irrational behaviour indicating the symptoms mentioned above.

When completing a Schedule 1 or Form 1 your observations should be expressed in these terms rather than the diagnostic and clinical terminology with which you may be more familiar. It is important to remember that not every condition characterised as a mental illness in the DSM or the ICD will be a mental illness for the purposes of the Act.

A person experiencing a mild depressive episode in the absence of a risk to self and others may have a recognised mental condition but not a mental illness for the purposes of the Act.

The symptoms included in the definition should be given their ordinary accepted meanings in the psychological sciences, without reference to overly clinical complexities or distinctions. For example a 'delusion' may be simply considered to be a belief held in the face of evidence normally sufficient to destroy the belief, and a 'hallucination' to be a subjective sense experience for which there is no appropriate external source.

WHAT IS SERIOUS HARM?

A Communique from the NSW Chief Psychiatrist was provided to the Local Health Districts and Speciality Networks in November 2014. It provides guidance to clinicians making involuntary treatment decisions, regarding the 'serious harm' criterion in the Act. The Communique states that, whilst serious harm is not defined in the Act, it is intended to be a broad concept that may include:

- physical harm to others;
- self-harm (including the risk of misadventure) and suicide;
- emotional/psychological harm to self or others;
- a deterioration in a person's mental state;
- financial harm;
- violence and aggression including sexual assault or abuse;
- stalking or predatory intent;
- harm to reputation or relationships;
- neglect of self;
- neglect of others (including children).

WHAT IS A CONTINUING OR DETERIORATING CONDITION?

This is a broad and open concept that requires an accredited person to consider:

- a person's clinical history including their understanding of their illness;
- a person's capacity or willingness to follow a voluntary treatment plan;
- the likely impact on the person's condition if they fail to follow a treatment plan.

This provision allows an intervention to occur before a person deteriorates to the most acute phase of their illness.

WHO IS A MENTALLY DISORDERED PERSON UNDER THE ACT?

Definition (s15)

A mentally disordered person is someone whose behaviour for the time being is so irrational that there are reasonable grounds to justify a conclusion that temporary care, treatment or control of the person is necessary to protect them or others from serious physical harm.

WHAT IS IRRATIONAL BEHAVIOUR AND SERIOUS PHYSICAL HARM?

These terms have no particular legal definition and are to be understood in terms of their everyday usage. The term 'irrational behaviour' refers to behaviour which a member of the community to which the person belongs would consider concerning and not understandable. In deciding whether a person is 'mentally disordered' the only additional test for 'irrational behaviour' is that temporary care, treatment or control of the person is considered necessary to prevent serious physical harm to the person or others.

The 'mentally disordered' provision is most commonly used when a person presents as suicidal following a personal crisis e.g. a relationship breakup. Intoxication with drugs and alcohol and impulsivity often feature in these situations.

Exclusion Criteria (s16)

These criteria are included in the Act to prevent the broad scope of s14 and s15 being used to control behaviour that is not related to mental illness or mental disorder. In themselves, these criteria are neither determinative nor even indicative of either mental illness or mental disorder within the meaning of the Act.

A person is therefore not to be defined as 'mentally ill' or 'mentally disordered' merely because of any one or more of the following:

- a particular political opinion or belief or activity;
- a particular religious opinion or belief or activity;
- a particular philosophy;
- a particular sexual preference or orientation;
- immoral or illegal conduct or antisocial behaviour;
- sexual promiscuity;
- the taking of drugs or alcohol;
- a developmental disability;
- a particular economic or social status or is a member of a particular cultural or racial group.

However, the exclusion criterion that refers to the taking of alcohol or drugs does not prevent the consideration of behaviour resulting from intoxication or withdrawal from a substance, or the serious physiological, or psychological damage resulting from the use of a substance in order to meet the definition of a mentally disordered or mentally ill person (s16(2)).

DECLARED MENTAL HEALTH FACILITIES

Declared mental health facilities are premises subject to an order in force under section 109. These premises are declared by the Secretary of the Ministry of Health to fulfill certain functions under the Act.

There are three classes of facilities:

- a mental health emergency class that deals with short term detention for initial assessment and treatment;
- an inpatient treatment class that deals with the full range of inpatient functions under the Act (this class includes Psychiatric Emergency Care Centres);
- a community or health care agency class to administer community treatment orders.

It is important all staff working with the Act, in particular those with the authority to take a person to a declared mental health facility against their will for the purpose of assessment (i.e. accredited persons, NSW Police, and NSW Ambulance officers (paramedics)) be familiar with their local declared mental health facilities.

A list of declared mental health facilities can be obtained by emailing the Mental Health Branch at MOH-mentalhealthbranch@health.nsw.gov.au. The email should indicate which of the three classes of listings is required – Emergency, Inpatient or Community.

CROSS BORDER MENTAL HEALTH AGREEMENTS

The Act makes provision with respect to the following matters:

- the interstate transfer of patients under mental health legislation;
- the interstate recognition of documents enabling detention of persons under mental health legislation;
- the treatment of interstate persons and persons in NSW subject to community treatment orders or similar orders made in other States;
- the apprehension of persons subject to certain interstate warrants or orders, or otherwise liable to apprehension, under mental health legislation.

NSW has entered into agreements relating to the treatment, care and transfer of civil and forensic mental health patients with Victoria, Queensland, South Australia and the Australian Capital Territory. These agreements and accompanying operational guidelines are available from http://www.health.nsw.gov.au/legislation/Pages/agreements.aspx.

Accredited persons who are exercising their powers along a border should familiarise themselves with the relevant agreements. They should also note that accredited persons are appointed under the NSW *Mental Health Act 2007* and can only exercise their powers within NSW.

Chapter 3

THE ROLE OF ACCREDITED PERSONS UNDER THE MENTAL HEALTH ACT 2007

The accredited person's role is set out in sections 19, 19A, 23, 27 and 27A of the Act.

DETENTION ON THE CERTIFICATE OF A MEDICAL PRACTITIONER OR AN ACCREDITED PERSON (S19 AND 19A)

This section of the Act specifies six elements that must be satisfied before a person is detained on a Schedule 1.

Element 1
You must personally examine or personally observe the person.

This may include examining a person by audio-visual link or from behind a closed door. A phone call however, is insufficient. The contact needs to be direct and involve intentional awareness or scrutiny of the person and their behaviour.

Where the examination is conducted by audio-visual link (s19A) you must be satisfied that:

- a personal examination is not reasonably practicable; and
- your examination can be carried out with sufficient skill and care to form your opinion about the person's mental state.

You must complete the Schedule 1 Certificate shortly after the examination.

Element 2
You must be of the opinion that the person is either 'mentally ill' (s14) or 'mentally disordered' (s15).

In some situations others may try to exert undue influence on your decision e.g. relatives, colleagues, superiors, police etc. The Act requires that **you** be satisfied that the person meets the criteria set out in s14 or s15.

Element 3
You must be satisfied that no other appropriate means for dealing with the person are reasonably available and that involuntary admission and detention is necessary.

Even if your examination leads to the view that the person is 'mentally ill' or 'mentally disordered', involuntary admission may not be necessary or appropriate. You need to assess the person's social resources and consider any realistic options e.g. what can be expected of friends and family; what can the community mental health team provide; is a voluntary admission possible?

Element 4
You must not be a near relative or a designated carer or the principal care provider of the person.

A near relative is a parent, brother, sister, child, spouse.

A designated carer is generally someone who has been nominated by the person but also includes a guardian, a parent (if the person is under 14 years), or a spouse (if the relationship is close and continuing).

A principal care provider is the individual primarily responsible for providing support and care to the person.

Element 5
You must use the prescribed form (Schedule 1).

NSW Health staff can order or download the Schedule 1 Form from the NSW Health online catalogue, hosted by TOLL: www.tollstreamdirect.com. For further information on ordering these forms please see page 45 (Obtaining Mental Health Act Forms).

Element 6
You must declare any pecuniary interest either direct or indirect held by yourself, near relative, partner or assistant in any private mental health facility.

A 'private mental health facility' is usually a privately owned hospital that has been granted a licence to admit, treat and care for patients. A pecuniary interest in such a hospital does not preclude an accredited person from completing a Schedule 1.

TIME LIMITS

A Schedule 1 remains valid for:

- five days after it is written for a mentally ill person; and
- one day after it is written for a mentally disordered person.

If a Schedule is written at any time on a Monday for example, then Day 1 is the Tuesday. Where the final day of a Schedule's validity falls on a Saturday, Sunday or public holiday, the Schedule can be enacted the following day (s36 *NSW Interpretation Act 1987*, no 15).

DETENTION FOLLOWING AN ORDER FOR MEDICAL EXAMINATION OR OBSERVATION (S23)

Although not a commonly used part of the Act (369 occasions between July 2016 and June 2017[2]), the section becomes important if you are asked to assess a person who is believed to be mentally unwell, but is inaccessible.

If a magistrate (or authorised officer within the meaning of Criminal Procedure Act) is satisfied that:

- a person may be 'mentally ill' or 'mentally disordered'; and
- the person could not be personally examined due to physical inaccessibility, then the magistrate may make an order authorising:
  - a medical practitioner or accredited person to visit and personally examine or observe the person;
  - a police officer (or other person) to accompany and assist the medical practitioner or accredited person.

In practice, where an application under s23 is sought, a face-to-face appointment in chambers with the Registrar of the Local Court will occur. The applicant (a medical practitioner or accredited person) should attend this appointment with relevant supporting documentation such as the person's medical records.

The applicant would also need to provide evidence under oath as to whether the attendance of any other person (including a police officer) is required to assist with entry to the premises by force, if necessary, so that the examination can take place.

A sealed copy of the order can then be taken to police.

Where this section is used a medical practitioner or accredited person may complete a Schedule 1, and must notify the Registrar of the outcome of their examination.

2 Source: Mental Health Review Tribunal 2016/17 Annual Report

EXAMINATION FOR ONGOING DETENTION IN A MENTAL HEALTH FACILITY (S27 AND S27A)

Once a person is brought to a declared mental health facility involuntarily (in any of the ways set out in the Act (ss19 to 26), they must be examined by an authorised medical officer, medical practitioner, or an accredited person, as soon as practicable (but within 12 hours). A similar set of considerations apply as with a Schedule 1 examination.

Element 1

You must personally examine or personally observe the person in person or using an audio-visual Link. You must complete the Form 1 shortly after the assessment.

Where the examination is conducted by audio-visual link you must be satisfied that:

- an in-personal examination is not reasonably practicable; and
- your examination can be carried out with sufficient skill and care to form your opinion about the person.

Element 2

You must be of the opinion that the person is either 'mentally ill' (s14) or 'mentally disordered' (s15).

Element 3

You must be satisfied that no other appropriate means for dealing with the person are reasonably available and that involuntary admission and detention is necessary.

Element 4

You must use the prescribed Form 1 (Clinical Report as to Mental State of a Detained Person).

NSW Health staff can order or download Form 1 from the NSW Health online catalogue, hosted by TOLL: www.tollstreamdirect.com. For further information on ordering these forms please see page 45 (Obtaining Mental Health Act Forms).

Element 5

You must not be the accredited person who completed the Schedule 1.

Element 6

You must seek the advice of a psychiatrist where practicable (s27A(4)).

Element 7

You must consider information provided by:

- any designated carer, principal care provider, relative or friend of the person;
- any medical practitioner or other health professional who has treated any person in relation to a relevant matter;
- any person who brought the person to the mental health facility (s72B).

Chapter 4

FILLING IN PART 1 OF A SCHEDULE 1

The Schedule 1* is an important legal document that:

- deprives a person of their liberty for the purpose of ensuring their further assessment;
- authorises their transport to hospital against their will.

It also:

- communicates pertinent information to other professionals involved in the person's admission;
- becomes part of the person's medical record;
- will be scrutinised by the Tribunal at a mental health inquiry if the person is admitted as a mentally ill person.

The following information should be clearly stated on the form:

- who has been scheduled;
- when this occurred;
- who made the decision;
- whether the person is regarded as 'mentally ill' or 'mentally disordered';
- a brief summary of the reasons for that decision;
- any physical factors that may have an impact on the person's mental state.

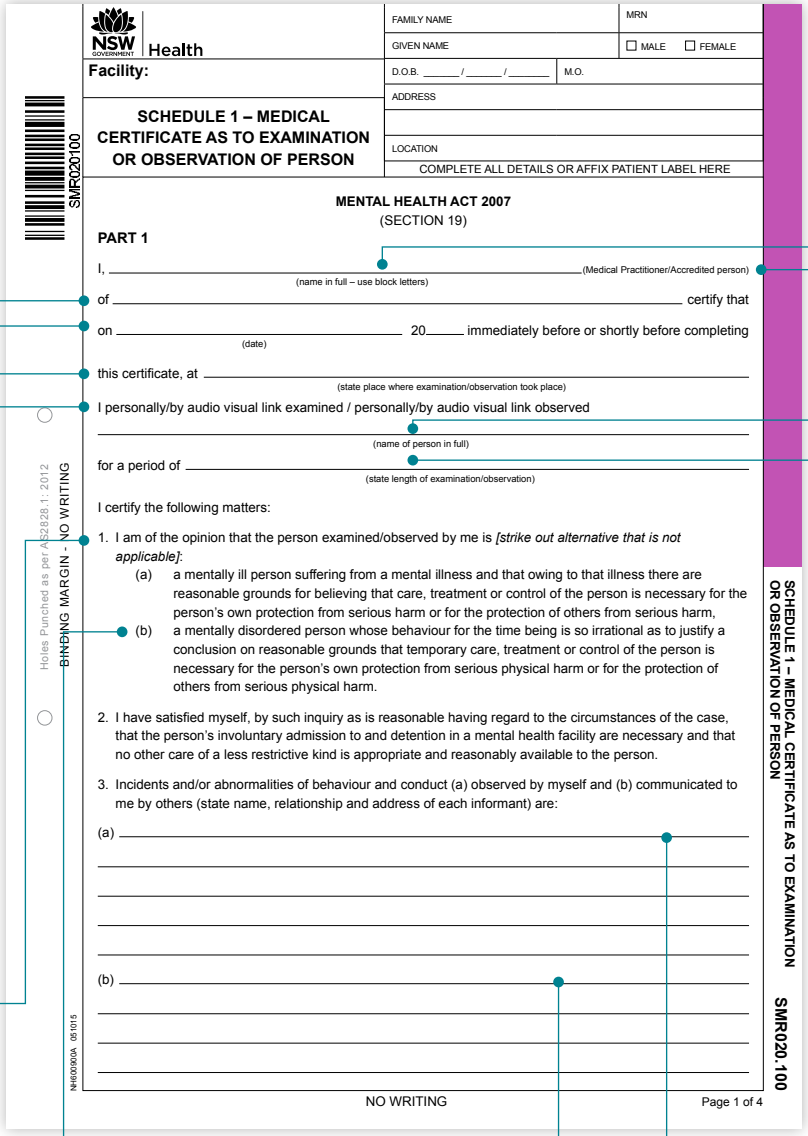
While the information provided on the Schedule 1 is legally sufficient to commence the process of involuntary admission, where possible it should be accompanied by additional material such as a referral letter or mental state examination. This will provide a more detailed picture of the person's circumstances for the subsequent decision makers.

OBTAINING SCHEDULE 1 FORMS

NSW Health staff can order or download the Schedule 1 Form from the NSW Health online catalogue, hosted by TOLL: www.tollstreamdirect.com. For further information on ordering these forms please see page 45 (Obtaining Mental Health Act Forms).

* A Schedule 1 is included in the Appendices

PART 1 OF A SCHEDULE 1



Health
Facility:

SCHEDULE 1 – MEDICAL CERTIFICATE AS TO EXAMINATION OR OBSERVATION OF PERSON

SMR020100

FAMILY NAME | MRN
GIVEN NAME | ☐ MALE ☐ FEMALE
D.O.B. ____/____/____ | M.O.
ADDRESS
LOCATION
COMPLETE ALL DETAILS OR AFFIX PATIENT LABEL HERE

MENTAL HEALTH ACT 2007
(SECTION 19)

PART 1

I, _____ (Medical Practitioner/Accredited person)
(name in full – use block letters)

of _____ certify that

on _____ 20____ immediately before or shortly before completing
(date)

this certificate, at _____
(state place where examination/observation took place)

I personally/by audio visual link examined / personally/by audio visual link observed

_____
(name of person in full)

for a period of _____
(state length of examination/observation)

I certify the following matters:

1. I am of the opinion that the person examined/observed by me is *[strike out alternative that is not applicable]*:
   (a) a mentally ill person suffering from a mental illness and that owing to that illness there are reasonable grounds for believing that care, treatment or control of the person is necessary for the person's own protection from serious harm or for the protection of others from serious harm,
   (b) a mentally disordered person whose behaviour for the time being is so irrational as to justify a conclusion on reasonable grounds that temporary care, treatment or control of the person is necessary for the person's own protection from serious physical harm or for the protection of others from serious physical harm.
2. I have satisfied myself, by such inquiry as is reasonable having regard to the circumstances of the case, that the person's involuntary admission to and detention in a mental health facility are necessary and that no other care of a less restrictive kind is appropriate and reasonably available to the person.
3. Incidents and/or abnormalities of behaviour and conduct (a) observed by myself and (b) communicated to me by others (state name, relationship and address of each informant) are:

(a) _____

(b) _____

NO WRITING

Page 1 of 4

Holes Punched as per AS2828.1: 2012
BINDING MARGIN - NO WRITING

SCHEDULE 1 – MEDICAL CERTIFICATE AS TO EXAMINATION OR OBSERVATION OF PERSON SMR020.100

NHSD/SOA 05/15

Next to "of", write where you work e.g. the name of the hospital or the service

Complete the date

"at" – write the name of the place where you examined the person e.g. hospital, community health centre, mental health unit

Specify if examination was in person or by audio visual link and whether the person was observed or examined

Point 1. (a) and (b)
Is the person mentally ill or mentally disordered? See page 3 of Schedule for descriptions. Cross out the one that does not apply

Write your full name on the first line. Be careful that you do not have the person being assessed scheduling YOU!

Delete "Medical Practitioner" or "Accredited Person"

Write the name of the person being assessed in full

State length of time you spent examining or observing the person being assessed. Examining means you asked questions and they responded i.e. an assessment. Observing means you watched them for a period of time and may not have been able to ask questions and/ or have answers

Is the person at risk of harm to themselves or others? Note the different definitions of harm for mentally ill and mentally disordered persons

Point 3. (b)
A brief summary of information reported to you by another person/s about the person. Identify who has provided this information

Point 3. (a)
A brief summary of examination/ observation, observed behaviours, symptoms – no need to use jargon

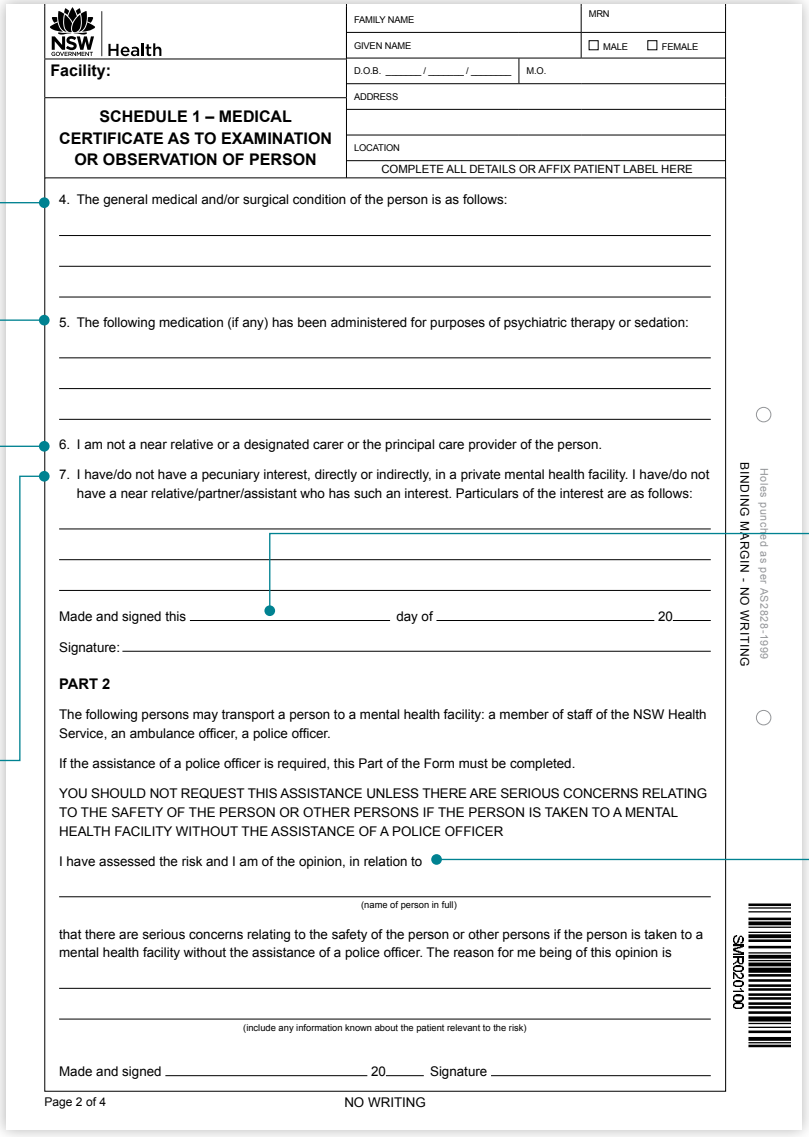
PART 1 AND 2 OF A SCHEDULE 1

Point 4
List any known medical/surgical problems

Point 5
List any medication given to the person being assessedincluding drug, dose, route and time

Point 6
You cannot schedule your parent, brother, sister, spouse or child or if you are the primary carer

Point 7
You can still schedule the patient if you have a pecuniary interest in a private mental health facility but you must declare this.



NSW GOVERNMENT Health

Facility:

FAMILY NAME | MRN

GIVEN NAME | ☐ MALE ☐ FEMALE

D.O.B. _____ / _____ / _____ | M.O.

ADDRESS

LOCATION

COMPLETE ALL DETAILS OR AFFIX PATIENT LABEL HERE

SCHEDULE 1 – MEDICAL CERTIFICATE AS TO EXAMINATION OR OBSERVATION OF PERSON

4. The general medical and/or surgical condition of the person is as follows:

5. The following medication (if any) has been administered for purposes of psychiatric therapy or sedation:

6. I am not a near relative or a designated carer or the principal care provider of the person.

7. I have/do not have a pecuniary interest, directly or indirectly, in a private mental health facility. I have/do not have a near relative/partner/assistant who has such an interest. Particulars of the interest are as follows:

Made and signed this _____ day of _____ 20____

Signature: _____

PART 2

The following persons may transport a person to a mental health facility: a member of staff of the NSW Health Service, an ambulance officer, a police officer.

If the assistance of a police officer is required, this Part of the Form must be completed.

YOU SHOULD NOT REQUEST THIS ASSISTANCE UNLESS THERE ARE SERIOUS CONCERNS RELATING TO THE SAFETY OF THE PERSON OR OTHER PERSONS IF THE PERSON IS TAKEN TO A MENTAL HEALTH FACILITY WITHOUT THE ASSISTANCE OF A POLICE OFFICER

I have assessed the risk and I am of the opinion, in relation to

(name of person in full)

that there are serious concerns relating to the safety of the person or other persons if the person is taken to a mental health facility without the assistance of a police officer. The reason for me being of this opinion is

(include any information known about the patient relevant to the risk)

Made and signed _____ 20____ Signature _____

Page 2 of 4 NO WRITING

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SMR020100

Date and sign the schedule

PART 2
Police assistance required – ONLY complete this section if you have serious concerns about the safety of the person being taken to hospital. Complete all parts of this, stating why you believe the police assistance is necessary. Date and sign Police assistance section if required.

Chapter 5

FILLING IN A FORM 1 – CLINICAL REPORT AS TO MENTAL STATE OF A DETAINED PERSON

The Form 1 must be used by an accredited person when they conduct an assessment after a person has been brought to a declared mental health facility against their will. As an accredited person you must be authorised by the medical superintendent to conduct this assessment (s27A (1 (b)).

Like the Schedule 1, the Form 1 is an important legal document that:

- communicates pertinent information to other professionals involved in the person's admission;
- becomes part of the person's medical record;
- will be scrutinised by the Tribunal at a mental health inquiry if the person is admitted as a mentally ill person.

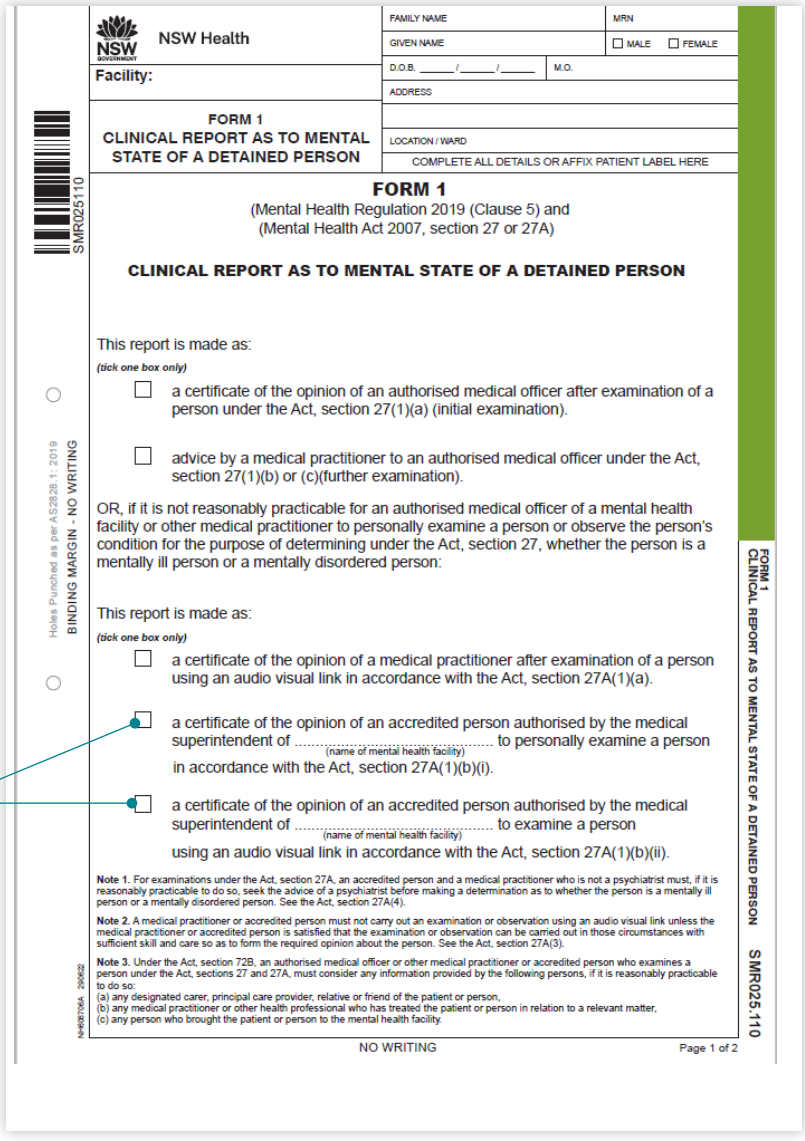
The following information should clearly appear on the form:

- who has been examined;
- the date on which the examination took place;
- the name of the mental health facility at which the person subject to examination was detained;
- Whether the examination was conducted in person or via audio-visual link
- whether the person is regarded as 'mentally ill' or 'mentally disordered';
- a brief summary of your observations and the reasons for your decision;
- a brief summary of advice provided by psychiatrist (where applicable).

OBTAINING FORM 1 – CLINICAL REPORT AS TO MENTAL STATE OF A DETAINED PERSON

NSW Health staff can order or download Form 1 from the NSW Health online catalogue, hosted by TOLL: www.tollstreamdirect.com. For further information on ordering these forms please see page 45 (Obtaining Mental Health Act Forms).

FORM 1 – PAGE 1



NSW Health

Facility:

FAMILY NAME | MRN

GIVEN NAME | ☐ MALE ☐ FEMALE

D.O.B. ____ / ____ / ____ | M.O.

ADDRESS

LOCATION / WARD

COMPLETE ALL DETAILS OR AFFIX PATIENT LABEL HERE

FORM 1
CLINICAL REPORT AS TO MENTAL STATE OF A DETAINED PERSON

SMR025110

FORM 1
(Mental Health Regulation 2019 (Clause 5) and
(Mental Health Act 2007, section 27 or 27A)

CLINICAL REPORT AS TO MENTAL STATE OF A DETAINED PERSON

This report is made as:

(tick one box only)

☐ a certificate of the opinion of an authorised medical officer after examination of a person under the Act, section 27(1)(a) (initial examination).

☐ advice by a medical practitioner to an authorised medical officer under the Act, section 27(1)(b) or (c)(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 the Act, section 27, whether the person is a mentally ill person or a mentally disordered person:

This report is made as:

(tick one box only)

☐ a certificate of the opinion of a medical practitioner after examination of a person using an audio visual link in accordance with the Act, section 27A(1)(a).

☐ 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 the Act, section 27A(1)(b)(i).

☐ a certificate of the opinion of an accredited person authorised by the medical superintendent of ..... (name of mental health facility) to examine a person using an audio visual link in accordance with the Act, section 27A(1)(b)(ii).

Note 1. For examinations under the Act, section 27A, 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 the Act, section 27A(4).

Note 2. A medical practitioner or accredited person must not carry out an examination or observation using an audio visual link unless the medical practitioner or accredited person 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 the Act, section 27A(3).

Note 3. Under the Act, section 72B, an authorised medical officer or other medical practitioner or accredited person who examines a person under the Act, sections 27 and 27A, must consider any information provided by the following persons, if it is reasonably practicable to do so:
(a) any designated carer, principal care provider, relative or friend of the patient or person,
(b) any medical practitioner or other health professional who has treated the patient or person in relation to a relevant matter,
(c) any person who brought the patient or person to the mental health facility.

NO WRITING

Page 1 of 2

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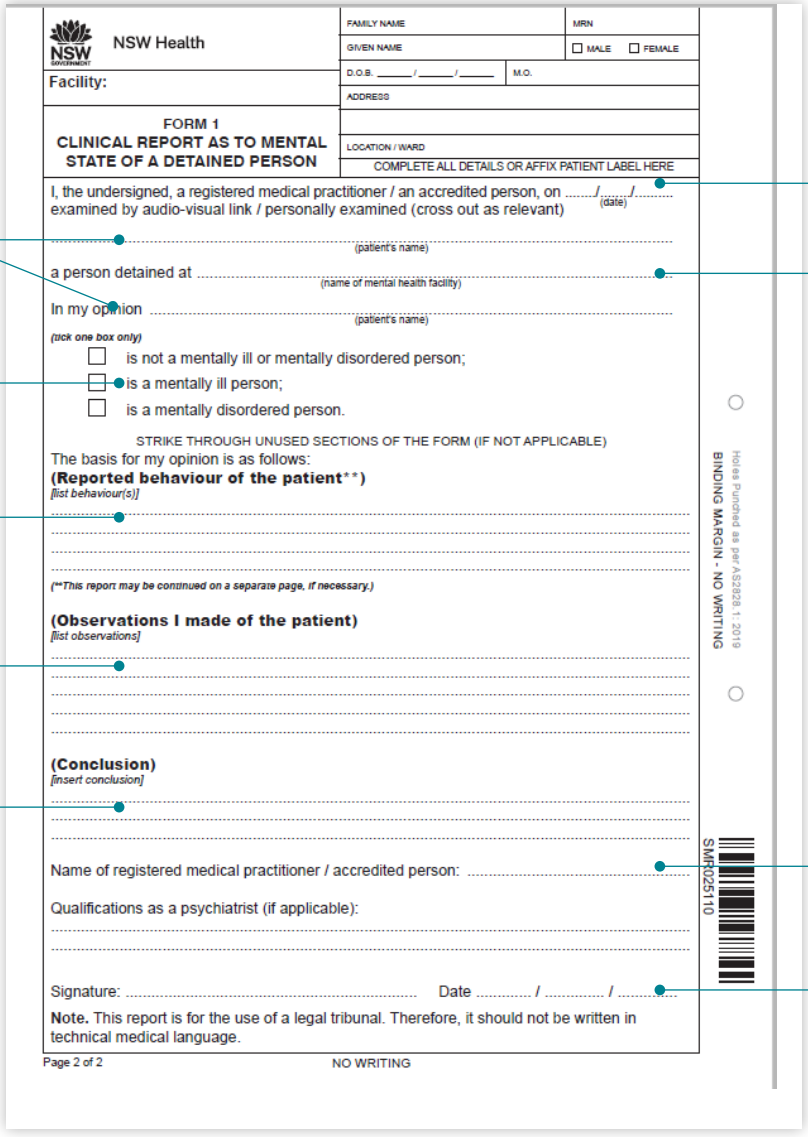
FORM 1
CLINICAL REPORT AS TO MENTAL STATE OF A DETAINED PERSON
SMR025.110

N4605706A 20622

Select the relevant box indicating you are an accredited person conducting an examination in person OR by audio visual link

FORM 1 – PAGE 2



NSW Health

Facility:

FAMILY NAME | MRN
GIVEN NAME | ☐ MALE ☐ FEMALE
D.O.B. ____ / ____ / ____ | M.O.
ADDRESS
LOCATION / WARD
COMPLETE ALL DETAILS OR AFFIX PATIENT LABEL HERE

FORM 1
CLINICAL REPORT AS TO MENTAL STATE OF A DETAINED PERSON

I, the undersigned, a registered medical practitioner / an accredited person, on ..../..../.... (date)
examined by audio-visual link / personally examined (cross out as relevant)

..... (patient's name)

a person detained at ..... (name of mental health facility)

In my opinion ..... (patient's name)

(tick one box only)

☐ is not a mentally ill or mentally disordered person;
☐ is a mentally ill person;
☐ is a mentally disordered person.

STRIKE THROUGH UNUSED SECTIONS OF THE FORM (IF NOT APPLICABLE)

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 I made 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. Therefore, it should not be written in technical medical language.

Page 2 of 2 NO WRITING

Holes Punched as per AS2828.1:2019
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SMR025110

Write patient's full name, NOT YOURS

Select one appropriate option

List behaviour(s) of the patient

List your observations of the patient

Insert conclusion

Complete the date

Insert the name of the mental health facility

Insert your name

Don't forget to sign and date

Chapter 6

ADMINISTRATIVE DECISION-MAKING PRINCIPLES

The decisions you make as an accredited person are not only framed by the legal definitions and requirements of the Act, but are more broadly underpinned by the principles of administrative law. These principles are there to guide you in making fair and proper decisions.

THE DUTY TO ACT HONESTLY

The duty to act honestly means to refrain from exercising the powers vested in you as an accredited person in order to:

- obtain some private advantage; or
- achieve some object other than that for which the power was conferred.

A breach of the obligation to act honestly involves:

- a consciousness that what is being done is not in the interests of your client, employer or the community; and
- deliberate conduct in disregard of that knowledge.

BAD FAITH OR IMPROPER PURPOSE

An accredited person must not exercise their powers in bad faith or for an improper purpose i.e. a purpose other than that for which the power was conferred.

Example: Duty to act honestly

On Friday afternoon you receive a call from one of your colleagues asking you to complete a Schedule 1 in relation to a person who is well known to the service. Your colleague describes the person's condition and it seems to fit the definition of a 'mentally ill' person. It will take you an hour and a half to get to the person's house. You know something of the person and trust the judgement of your colleague so you agree to complete the Schedule 1 and drop it off at the Emergency Department in town. Your colleague's suggestion seems like the quickest and safest way of ensuring that the person gets to hospital for further assessment.

In failing to personally examine or observe the person you have acted dishonestly, however good your intentions may have been.

Example: Bad faith or improper use

As a newly accredited person you have not had the opportunity to schedule anyone for the first 9 months. Fearing that your authorisation may be removed, you decide to schedule a dozen people to get in some practice and show that you've got what it takes.

This would clearly be an improper use of the power. An accredited person does not need to exercise their powers in order for them to be retained.

IRRELEVANT CONSIDERATIONS

Every decision maker must take into account and give proper attention to all the relevant considerations, and likewise disregard extraneous or irrelevant matters. As an accredited person this means weighing all of the elements specified in either the Schedule 1 or Form 1 before coming to a decision. While irrelevant considerations will often form part of the context in which a decision is made, they must not provide the basis for your decision.

UNCERTAINTY (AND LACK OF FINALITY)

A decision may be declared invalid if:

- it is so uncertain that no reasonable person could comply with it; or
- it cannot be given any sensible meaning.

A Schedule 1 or Form 1 may be so poorly completed that it is declared invalid by the Tribunal at a mental health inquiry. If this occurs then all the subsequent decisions relating to the person's involuntary status are also invalid. If the person is unwilling to remain in hospital as a voluntary patient they must be discharged.

FETTERING DISCRETION

An accredited person must be capable of giving genuine consideration to the matter in hand and not approach the situation with a closed mind.

ACTING ON POLICY

As an accredited person it is important to adhere to the policies and guidelines developed by your public health organisation, usually a Local Health District or Specialty Health Network, concerning the use of accredited persons in your area. These policies and guidelines provide additional guidance in relation to your obligations and accountabilities under the Act.

Example: Irrelevant considerations

During an assessment you recall that this person used to bully your sister on the school bus 15 years ago. You observe some indications of mental illness and risk of harm, but you are not sure that a Schedule 1 is warranted in these circumstances. However, you decide that scheduling this person can be justified and taking them to hospital against their wishes will provide some kind of 'justice' for your sister.

The person's past behaviour in relation to your sister is an irrelevant consideration.

Example: Fettering discretion

This may present difficulties where a person is well known, even if not to you personally. Commonly held views about particular individuals may be held within mental health teams e.g. opinions about who is 'non-compliant' or who has 'no insight'. Additional effort will be needed to approach these clients with an open (unfettered) mind rather than a pre-formed view.

ACTING UNDER DICTATION

In making your decisions under s 19, 19A, 20, 23, 27 and 27A of the Act you need to act in an independent manner, not dictated to by a third party e.g. relative, colleague or superior. If a decision–maker feels obliged to decide a matter in a particular way because of another's views on the matter, this can be construed as 'dictation' even though no specific direction has been given. This does not of course preclude listening to, or having regard for sources of relevant opinion.

RULES OF PROCEDURAL FAIRNESS

These rules relate not so much to which matters are to be considered in making a decision, but how a fair decision is reached.

THE HEARING RULE

The general law requires that a person be informed of the case against them and be given the opportunity to reply before a decision is made that deprives them of some right, interest or benefit.

In the context of a mental health assessment this means that you should make every effort to:

- explain as clearly as possible your view of the situation and the options;
- listen to the person's point of view;
- answer questions from the person or their friends and family about the options before arriving at your decision.

THE BIAS RULE

The bias rule states that if a decision-maker has an interest (pecuniary or otherwise) in the outcome of a particular decision, that person is barred from dealing with the matter.

This issue is dealt with specifically in Question 7 of Schedule 1 where you are asked to disclose any pecuniary interest that you, or your partner or near relative might have in a declared mental health facility. In this case your declaration does not exclude you from making the decision. However, an active and particular dislike for the person to be assessed would exclude you on the grounds of bias.

THE 'NO EVIDENCE' RULE

This rule states that an administrative decision must be based on logically probative material and not mere speculation, suspicion or hearsay.

As an accredited person this means that you need to directly examine or observe the person being assessed. Your decision must be based on your own contemporaneous observations and not rely on the opinions of others. This means that you can't decide that a person is 'mentally ill' or 'mentally disordered' after merely talking to their relatives and friends.

If the person to be assessed leaves before you arrive you can certainly speak to others to gain relevant information, but you cannot fill out the Schedule 1, sign it and leave it with the relatives for them to bring the person in when they return.

Chapter 7

CLINICAL CONSIDERATIONS

You will be called upon to assess people in a wide variety of situations both in the community and in a mental health facility. Whatever the circumstances, you need to make your own observations upon which to base your decision.

ASSESSMENT

The following factors should be considered during your assessment.

ESTABLISHING RAPPORT

- greet the person and their family and friends;
- if possible speak to the person first;
- be open to the person's experience and views;
- find some common ground;
- reassure the person that their view is important.

USE OF AVL FOR EXAMINATIONS

The NSW Health Guideline Use of Audio-Visual Link for Mental Health Assessments under the Mental Health Act 2007 [GL2022_007] provides a framework for clinicians about the use of audio-visual link for mental health assessments under the Mental Health Act 2007.

ASSESSING THE SYMPTOMS SPECIFIED BY THE ACT

Hallucinations:

- perceptions occurring in the absence of the corresponding sensory stimulus;
- experienced as immediate, vivid, independent of will and often, even if only momentarily, felt to be real;
- may be experienced by well people under unusual circumstances e.g. in acute bereavement, sensory deprivation.

Delusions:

- unshakeable and false beliefs inconsistent with person's cultural, religious or social background.

It is preferable to make gentle enquiries rather than challenging the person's delusions directly.

Thought disorder:

This is often evidenced by the following:

- circumstantial or tangential speech;
- blocking or derailment;
- loosening of associations;
- non-sequiturs and verbal perseveration;
- flight of ideas.

Severe disturbance of mood:

This is often evidenced through a sustained subjective feeling state that is:

- depressed, anhedonic;
- elated, euphoric;
- irritable, angry;
- fearful or guarded;
- detached, indifferent, apathetic.

This may be elicited by asking about personal losses, disappointments and joys; hobbies and interests; relationships and work (successes and failures).

Sustained or repeated irrational behaviour:

This is often evidenced by:

- self harm or harming others;
- agitation (increased purposeless behaviours);
- neglecting self-care;
- acting on delusions or command hallucinations;
- disinhibition – sexual, physical or financial;
- catatonia.

ASSESSING RISK: 'SERIOUS HARM' TO SELF

Physical harm

In assessing suicidality it is important to take note of:

- threats or attempts current and past;
- degree of intent or planning;
- hope for the future;
- lethality of means;
- attitude after resuscitation;
- contributing factors e.g. grief, mental illness, substance abuse, physical illness.

Non-physical 'serious harm'

- social harm – e.g. damage to reputation by anti-social or disinhibited behaviour;
- capacity to care for self;
- financial harm – e.g. squandering resources or delusions of poverty;
- psychological harm – e.g. developmental arrest in young person with schizophrenia who is refusing treatment.

ASSESSING RISK: 'SERIOUS HARM' TO OTHERS

Physical harm

The risk of serious physical harm to others may be increased by:

- paranoia;
- incorporation of others into delusions;
- danger to children of untreated mental illness in a parent.

Non-physical 'serious harm'

- social harm – e.g. social isolation of family, withdrawal of children from education or peers because of a parent's untreated illness;
- financial harm – e.g. effects on family of loss of job, squandering of financial resources;
- psychological harm – e.g. PTSD in children or spouses.

ASSESSING THE PERSON'S HISTORY

- psychiatric – first episode or part of a continuing condition (consider the likelihood and consequences of deterioration);
- medical;
- family.

ASSESSING THE FAMILY'S VIEWS

- pre-morbid personality and functioning;
- family history;
- recent changes in person being assessed: degree, duration, persistence;
- behavioural manifestations of psychosis;
- what's the family's explanatory model and what do they want?

ASSESSING THE SOCIAL SITUATION

What resources are available to family and friends?

- time;
- personal support network;
- level of care that can be provided by the community team.

What are the attitudes of family and friends to the person's illness?

- knowledge and understanding;
- willingness and ability to care for the person;
- ability to assist with management of medication;
- ability to contain the person.

WHAT ARE YOU TRYING TO ACHIEVE?

While each situation requires a specific and individual response the following general principles apply:

- minimise the trauma;
- reduce the delay;
- organise treatment at home where possible;
- provide information and support to the family;
- involve family and friends where appropriate;
- provide a clear explanation of processes;
- minimise police involvement.

IF THE DECISION IS MADE TO SCHEDULE

- facilitate the admission and transport;
- provide a clear explanation of the process to the person and/or family;
- if you are not accompanying the person to hospital ensure that family and friends are clear about the process and their options (e.g. accompanying the person).

IF YOU ARE CONDUCTING AN ASSESSMENT UNDER S27A

- if you decide that the person is either mentally ill or mentally disordered explain the next stage in the process (i.e. that they will need to be assessed by a psychiatrist);
- if you decide that the person is neither mentally ill nor mentally disordered assist the person to return home safely.

ELEMENTS OF DECISION-MAKING IN ASSESSING FOR INVOLUNTARY ADMISSION

- establish rapport with the person that encourages communication, care planning and the achievement of common goals;
- consider the least restrictive environment in which the person can be safely treated at this time;
- assess the risk of serious harm to the person or others ('serious physical harm' in the case of mental disorder);
- is the person a 'mentally ill' or 'mentally disordered' person as defined by the Act?
- base your assessment on reports from relevant others and your own observations of the person.

Chapter 8

ADDITIONAL CONSIDERATIONS IN COMPLETING A SCHEDULE 1 OR FORM 1

While the provisions of the Act apply generally to people within NSW, some groups require an additional level of service and attention for the objective of 'the best possible care and treatment in the least restrictive environment enabling the care and treatment to be effectively given' to be achieved.

YOUNGER CONSUMERS – UNDER 18 YEARS

The Act in general applies to children (those under 18) who come within the definitions of a 'mentally ill person' or a 'mentally disordered person'. The Act specifies under the principles for care and treatment (s68) that those under the age of 18 should receive developmentally appropriate services.

While the use of the coercive powers of the legislation may at times be necessary, it is important to provide opportunities for younger people to exercise meaningful choice wherever possible.

In assessing and treating younger people who are mentally ill or have a mental disorder, mental health clinicians should apply the NSW Health policy: *Children and Adolescents with Mental Health Problems Requiring Inpatient Care*. This policy can be accessed through the NSW Health Policy Distribution System: https://www.health.nsw.gov.au/policies/Pages/default.aspx

Involuntary admission

Younger people can be admitted as involuntary patients in the same way as adults. However, it may be possible in some cases to achieve the necessary care and treatment through a voluntary admission with the consent and cooperation of the parent(s).

Voluntary admission (s6)

The Act contains the following specific provisions in relation to the voluntary admission of children:

- if the child is under 16 years of age, the authorised medical officer must notify the parent as soon as practicable of the voluntary admission;
- if the child is 14 or 15 years of age, they may choose to continue as an voluntary patient even where the parent objects;
- if the child is under 14 years of age, parental consent is essential for a voluntary admission to proceed;
- if the child is under 14 years of age, the authorised medical officer must discharge them if there is a request from a parent to do so.

Rights of younger people under the Act

Younger people in general have the same rights as adults under the Act (see Mental Health Act Guide Book, Chapter 3). Children's inexperience can add another layer of complexity in considering how they can best be assisted to understand and exercise those rights.

OLDER CONSUMERS

The Act contains no specific provisions for the care and treatment of older consumers, though psychological disorders occur and recur in older people. It may be necessary at times to use the powers of the Act to involuntarily detain an older person or place them on a community treatment order.

Conditions such as dementia and delirium, which occur more often in older people, can cause difficulties in the application of the Act. However, as with any person being assessed for potential admission, consideration should always be given to the definitions of a mentally ill or mentally disordered person.

At the time of the initial assessment, it may not be possible to know whether an older person is suffering from dementia, delirium or another mental illness (such as late onset schizophrenia). Urgent admission for assessment may be necessary and may be possible on the basis that the person is a 'mentally disordered' or 'mentally ill' person. If the subsequent diagnosis is one of delirium or dementia without any symptoms

consistent with the person being mentally ill or mentally disordered, a decision must be made whether the use of the *NSW Trustee and Guardianship Act 2009* is required (see Mental Health Act Guide Book, Chapter 12).

In working with older consumers reference should also be made to *NSW Older People's Mental Health Services SERVICE PLAN 2017-2027*. This Service Plan can accessed through the NSW Health Policy Distribution System: https://www.health.nsw.gov.au/policies/Pages/default.aspx

CULTURAL ISSUES

The Act specifies that the religious, cultural and language needs of consumers be recognised and taken into account throughout the different stages of their care and treatment, and that they be informed of their legal rights and entitlements in 'the language, mode of communication or terms that they are most likely to understand'. The Act also specifies that the cultural and spiritual beliefs of Aboriginal people or Torres Strait Islanders should be considered during their mental health assessment and treatment.

Even where language is not an obstacle, aspects of cultural difference may have a profound impact on assessment and treatment issues. Aboriginal mental health workers and transcultural mental health workers can provide:

- information about cultural, political or religious aspects of an assessment;
- advice about a consumer who is reluctant to work with a mainstream clinician;
- referral to community support services or bilingual mental health professionals.
- consultation on cross-cultural skills
- consultation regarding diagnosis and care planning (see Contacts).

Aboriginal and Torres Strait Islander consumers

In working with Aboriginal consumers and Torres Strait Islander consumers, the principles outlined in *NSW Aboriginal Mental Health and Well Being Policy 2006 – 2010* apply[3] - This policy can be accessed through the NSW Health Policy Distribution System: https://www.health.nsw.gov.au/policies/Pages/default.aspx

This policy outlines the following principles:

Respect and Responsibility

- All mental health staff will treat all Aboriginal clients with respect and with sensitivity to the cultural, spiritual, historical, family and community factors that influence their social and emotional wellbeing.
- The mental health needs of Aboriginal people and their communities are a core responsibility of mental health teams and services and of the full range of staff employed in these services: Aboriginal clients and their families have the right to access all mental health services.
- Aboriginal people and their families are to be provided with information about their rights and needs and responsibilities and are to be involved in decisions related to their care.
- The safety of individuals and their families is to be considered a key priority of mental health service delivery to Aboriginal communities.

Choice

- Aboriginal clients are to be provided with a choice of services that includes Aboriginal service providers and that closely involves families or carers. Aboriginal people are to be offered a range of service options including, when appropriate and available, shared care arrangements between specialist mental health services and an ACCHS.

Appropriate services

- Assessment, diagnosis, treatment and care of Aboriginal clients is to be conducted within an holistic and culturally sensitive and appropriate model of care. It is essential to address, through service delivery or referral, the full range of needs of the client.
- The relationship between mental health and health enhancing behaviours is to be considered integral to the mental health assessment and interventions provided to Aboriginal clients.
- Mental health services are responsible for providing a comprehensive assessment to

3 At the time of publication, (March 2019) this policy is currently under review.

Aboriginal people with mental health and substance use problems and for the delivery of treatment services, coordinated with drug and alcohol and other health services.

- Distress in Aboriginal people, including despair, anger, grief, loss or trauma, is to be addressed by the provision of culturally sensitive interventions and partnership work with a range of agencies.
- Data collection, research and service development are subject to the principles of the *NSW Aboriginal Health Partnership Agreement 2001*. This work should occur under the Partnership Agreement and in partnership with Aboriginal people and under that Agreement.

Culturally and Linguistically Diverse (CALD) consumers

A number of studies have established that CALD consumers have higher rates of:

- involuntary admission;
- police involvement;
- ECT;
- community treatment orders.

Second language competency may also decrease dramatically in times of crisis. The difficulties and trauma associated with an episode of mental illness can often exacerbate language difficulties, even when a consumer is normally quite confident and fluent in English.

The implementation of practical measures to address language and cultural barriers throughout the assessment, admission and treatment process is therefore essential. If an interpreter is not used during an initial assessment important cultural and religious issues that affect the mental health care of a person may be overlooked or misconstrued.

Interpreters and/or bilingual mental health professionals should be involved with:

- the examination process prior to admission as either a voluntary or involuntary patient;
- ongoing consultations with treating doctors;
- informing relatives and carers about aspects of the consumer's care and treatment;
- the development of a discharge plan;
- the use of a community treatment order.

Booking an interpreter

Each Local Health District and Specialty Health Network has a Health Care Interpreter Service. When making a booking the following information should be provided:

- person's country of birth;
- language required (and dialect where appropriate);
- person's name;
- name and contact details of mental health professional;
- location and anticipated duration of the booking;
- preferred gender of the interpreter.

If the Health Care Interpreter Service is unable to provide a service at the time required, the Telephone Interpreter Service is available 24 hours a day, 7 days a week on 131 450.

Cultural considerations

Even where language is not an obstacle, linguistic and religious differences may have a profound impact on decisions about assessment and treatment.

There are transcultural mental health services that can provide:

- information about the cultural, political or religious aspects of an assessment;
- referral to community support services or bilingual mental health professionals;
- consultation and assessment regarding diagnosis and care planning.

See Contacts section on page 46

Chapter 9

GETTING THE PERSON TO HOSPITAL SAFELY AND USING THE POWERS UNDER S81

The transport and management of a person with a mental illness or mental disorder will at times require a coordinated response by mental health staff, ambulance and police to ensure that:

- the person receives appropriate care, and
- the safety of the person, staff, and the community is protected.

While the Act provides the legislative framework for the allocation of responsibility, it is the Memorandum of Understanding (MOU) between the Ministry of Health (including NSW Ambulance) and the NSW Police Force that "guides how these agencies will work together when delivering services to people with mental health problems." (NSW Health – NSW Police Force Memorandum of Understanding 2018).

Staff across these agencies are expected to work collaboratively in implementing the following principles which underpin the operation of the MOU:

- A commitment to ensure that people are treated with dignity and respect and that services are provided in a confidential environment.
- A commitment to respond to incidents and to provide services in a manner that is least restrictive, consistent with the person's clinical and safety needs and the circumstances at the time.
- A commitment to work together to ensure that people with mental illness have timely access to appropriate care and treatment in a safe environment.
- Every effort will be made to involve people with a mental illness or mental disorder and their carers where relevant, in the development of treatment and recovery plans and to consider their views and expressed wishes in that development. This includes obtaining the person's informed consent when collaboratively developing treatment and recovery plans, monitoring their capacity to consent and supporting those who lack capacity to understand their plans.
- A commitment to respond to people in a mental health emergency with the same urgency as a physical health emergency.
- Age, gender, religious, cultural, language and other significant factors are recognised and accommodated if possible in the circumstances.
- Wherever possible the care and treatment of people with a mental illness should aim to support the person to live, work and participate in the community.
- All interventions will be in keeping with the Act.
- Local MOU Committees will support the operational effectiveness of the MOU and timely issue resolution.

TRANSPORT, RESTRAINT, SEDATION AND SEARCHES (S81)

The 2007 Act introduced specific provisions relating to transport, restraint, sedation, and searches that brought NSW law into line with other states.

Section 81 states that a person may be taken to or from a mental health facility or transported between appropriate health facilities by:

- a member of staff of the NSW Health Service (including an accredited person appointed to a PHO);
- an ambulance officer (paramedic);
- a police officer;
- a person prescribed by the regulations (includes a person who provides a transport service approved by the Secretary for the purposes of s81).

Any of these may use reasonable force, and restrain the person in any way that is reasonably necessary in the circumstances to provide for the person's safety and the safety of staff involved in the transport.

During transportation a person may be sedated:

- by a person authorised by law to administer a sedative;
- if it is necessary to ensure the person's safety and the safety of staff involved in the transport.

A frisk search or ordinary search may be carried out when someone is being transported where there is a reasonable suspicion that the person is carrying anything:

- that would present a danger to the person or another, or
- that could be used to assist the person to escape.

Any such object can be seized and detained.

The Act defines a frisk search as:

- a search of a person conducted by quickly running the hands over the person's outer clothing or by passing an electronic metal detection device over or in close proximity to the person's outer clothes, or
- an examination of anything worn or carried by the person that is conveniently and voluntarily removed by the person, including an examination conducted by passing an electronic metal detection device over or in close proximity to that thing.

The Act defines an ordinary search as:

- a search of a person or of articles in the possession of the person that may include requiring the person to remove their overcoat, coat, jacket or similar article of clothing and any gloves, shoes, socks and hat, and any examination of those items.

MOU Section 3.3.3 Searching of people with a mental illness or a mental disorder for transport

This section of the MOU provides information and guidance on who should conduct the search where more than one agency is present and the importance of sharing information between agencies, in relation to the outcome of any search.

CONSIDERING TRANSPORT OPTIONS

The three main transport options available to transport a person from the community to hospital are NSW Ambulance vehicle, NSW Police vehicle and a community mental health or hospital vehicle.

In deciding how to transport a person, the primary factors to be considered are the clinical and safety needs of the person and the safety of others including the staff involved in the transport. Where more than one agency is involved in determining how to transport the person, the sharing of information between agencies is important to conducting a joint risk assessment. (See MOU 3.3.1 and 3.3.2 for further information).

PARAMEDICS AND MENTAL HEALTH – A BRIEF OVERVIEW

Paramedics in NSW receive mental health training as part of their core training. While the Act gives paramedics the authority to transport a person to a declared mental health facility for a mental health assessment this power is not widely used within NSW Ambulance. In the year ending June 2017 paramedics exercised this power in 3145 cases, which represented only 5.5% of all mental health patients. Paramedics generally only use s20 when they believe that an assessment is necessary and the person refuses to be transported.

Paramedics, as part of their transfer of care to clinicians at the health facility, will communicate all clinical and safety risk factors in relation to the person. Where paramedics have taken the person to the declared facility under the Act, this information will assist staff at the health facility to provide for the safety of the person including assessing them to determine if they meet the criteria for detention under the Act.

Paramedics may seek Police assistance under s20(2) of the Act – and whenever required to ensure public safety.

Every ambulance in NSW now carries a mechanical restraint device (MRD) which qualified paramedics are authorised to use. Where the restraint is used one paramedic has to be with the person who is restrained at all times. Paramedics are also trained to administer sedation where appropriate to enable the person to be taken safety to a health facility.

REQUESTING AMBULANCE ASSISTANCE

When requesting ambulance assistance to transport a person it is important to provide as much clinical information as possible, including current behaviour, risk of violence, medical conditions, medication taken, mental health diagnosis if known and substance use and its effect on the person's behaviour. This information enables NSW Ambulance to prioritise the request and respond accordingly.

All available information relating to risk should be provided to enable paramedics to determine the risk to the person or others in a moving ambulance and the need for security escorts.

The NSW Ambulance Control Centres despatch ambulances according to clinical urgency. While every effort will be made to respond to an accredited person's request as quickly as possible, it may not always be possible to despatch an ambulance immediately.

POLICE AND MENTAL HEALTH – A BRIEF OVERVIEW

In 2009 the NSW Police Force established a Mental Health Intervention Team (MHIT) as a permanent unit to help improve responses to people with mental health problems who come into contact with police officers.. The MHIT aims to:

- provide police with a better understanding of dealing with mental health consumers through ongoing training;
- reduce injury in crisis events;
- improve collaboration with other agencies in responding to and management of mental health crisis events;
- reduce police time in the handover of mental health consumers into the health care system.

Every police officer in NSW has completed a one-day mental health training workshop. Additionally, selected police have also completed a four-day training program in mental health and can be identified by an MHIT badge.

There is also a network of Mental Health Contact Officers (at Inspector rank) with one stationed at each Police Area Command. One of the Mental Health Contact Officer's responsibilities is to liaise with all relevant agencies and assist with resolving mental health related disputes either at the time or through attendance at the Local MOU Committee meetings.

Police use of s22

Police adopt a relatively high threshold for the use of s22 (their independent authority to apprehend and take a person to a declared mental health facility for assessment). There may be occasions where a person may appear mentally ill or disturbed, but does not meet the other criteria for detention under s22. In these situations, the police may contact the local mental health team to see if a medical practitioner or an accredited person can assess the person and where appropriate complete a Schedule 1.

Where the police become involved because of their own concerns about a person's mental state (s22) or where they have received a formal request for assistance (e.g. under s21) they may enter premises without a warrant.

Where police do exercise their authority under s22 they must still give consideration to the most appropriate form of transport in line with the principles of the MOU. This will be based on a risk assessment.

Police may, for example, arrange for the person to be transported by ambulance. The new MOU now allows for police to handover the s22 document to NSW Health staff (including Ambulance) in the field. If all parties agree that it is safe to do so then Health staff can take the person to the declared mental health facility for assessment without the need for police attendance.

Requesting police assistance

Police can be called upon to assist in transporting a person to a declared mental health facility where:

- a medical practitioner or accredited person who has completed a Schedule 1 has serious concerns about the safety of the person or others if the person is transported without police assistance (s21);
- a paramedic has serious concerns relating to the safety of the person or others in getting the person to a declared mental health facility (s20 and s21).

Where an accredited person considers that there are serious concerns, they may fill in Part 2 of the Schedule 1 specifying their grounds for concern. However, consideration should still be given to the most appropriate agency to convey the person.

Part 2 of the Schedule 1 authorises the police to apprehend the person or assist in taking them to a declared mental health facility.

Where the police receive a request for assistance they must, if practicable:

- either take or assist in taking the person to a declared mental health facility, or
- arrange for another police officer to do so.

As a person transported by the police will be moved in a police caged vehicle this should be viewed as a last resort. Police can however assist in a number of ways including physically restraining the person, accompanying paramedics during a transport or following an ambulance in an escort capacity to ensure safety.

AFTER COMPLETING PART 2 OF SCHEDULE 1

After completing Part 2 an Accredited Person should:

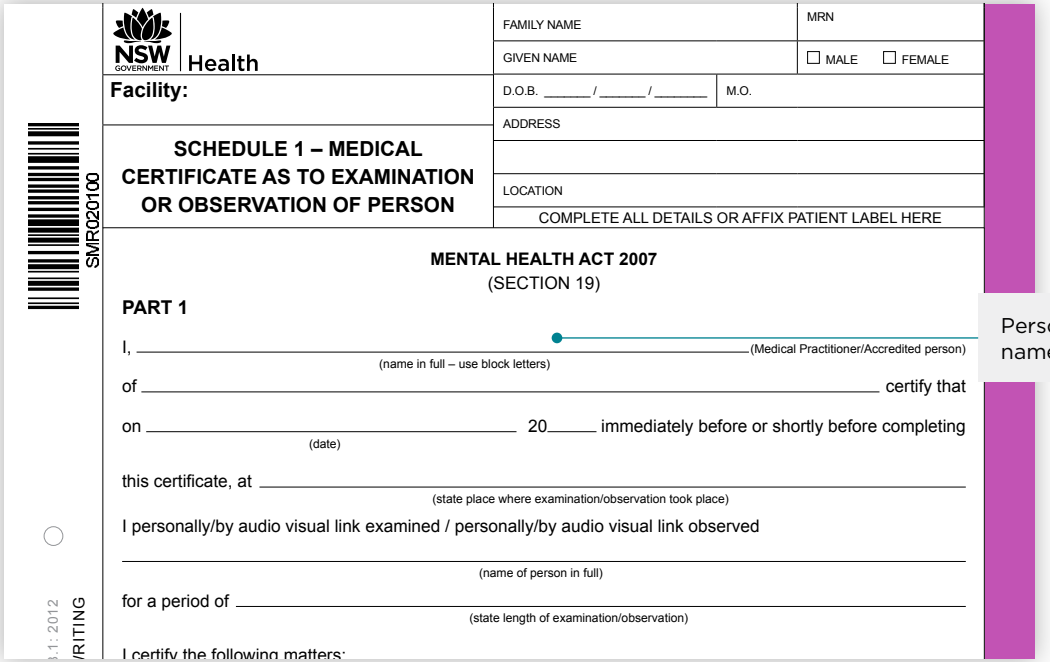
- contact their local police station;
- speak to the Duty Officer;
- outline the reasons for their request for police assistance.

The Duty Officer (a sergeant):

- is the officer who allocates crews and resources during a specific shift;
- may be able to provide further information in relation to the risk assessment.

Where no crew is available to provide assistance during a current shift it may be appropriate for an accredited person to speak to a duty officer (an inspector) to negotiate availability.

If the matter cannot be resolved it should be referred to the Mental Health Contact Officer at that Police Area Command.



NSW GOVERNMENT Health

Facility:

SCHEDULE 1 – MEDICAL CERTIFICATE AS TO EXAMINATION OR OBSERVATION OF PERSON

SMR020100

FAMILY NAME | MRN

GIVEN NAME | ☐ MALE ☐ FEMALE

D.O.B. _____ / _____ / _____ | M.O.

ADDRESS

LOCATION

COMPLETE ALL DETAILS OR AFFIX PATIENT LABEL HERE

MENTAL HEALTH ACT 2007
(SECTION 19)

PART 1

I, _____ (Medical Practitioner/Accredited person)
(name in full – use block letters)

of _____ certify that

on _____ 20____ immediately before or shortly before completing
(date)

this certificate, at _____
(state place where examination/observation took place)

I personally/by audio visual link examined / personally/by audio visual link observed

_____
(name of person in full)

for a period of _____
(state length of examination/observation)

I certify the following matters:

Persons name

Information:
Health staff including accredited persons, police officers and paramedics can share information in respect of people to whom they are providing services, for the following purposes:

- to provide a health service
- to provide physical and mental health care needs for transportation
- to prevent serious and imminent threats to any person or serious threats to public safety
- to enable NSW Police to exercise their law enforcement functions but only where there are reasonable grounds to believe that an offence may have been or may be committed.

Relevant information may include:

- person's name, gender, and date of birth;
- usual address and where they are now;
- history of violence or other behavioural disturbance and any known triggers for violence;
- details of current situation and concerns regarding actual/potential violence to self and others;
- influence of illicit drugs or alcohol;
- medication taken and possible interactions/side effects on consequent behaviour;
- involvement of accredited person;
- presence or availability of others e.g. family, friends, guardian or carer and relevant information gained from them;
- indigenous/cultural background or special needs;
- mandatory notification of any children at risk;
- need for interpreter;
- de-escalation techniques that may have been effective in the past;
- risk factors associated with the transportation.

Additional practice issues where police and paramedics are involved

- It is not acceptable to give police a Schedule 1 and ask them to enforce it without assisting in the identification of the person concerned and negotiating transport arrangements.
- Transport should, where possible, be undertaken during business hours when all agencies' resources are more available.
- Where an ambulance is involved, and depending on the risk, one police officer may travel inside the ambulance and another officer follow in a police vehicle.
- All ambulances carry a mechanical restraint device and should be considered.
- Police vehicles are the most restrictive method of transport. As a person's mental and/or medical condition cannot be adequately monitored, caged vehicles should only be used as a last resort.
- A person brought to a mental health facility in a police caged truck must be promptly transferred to preserve the person's safety and dignity.

ASSISTING WITH THE ADMISSION

Once the accredited person has decided to write a Schedule, the accredited person will arrange appropriate transport to the declared mental health facility.

Every effort should be made to minimise delays to assessment in the declared mental health facility, and admission where this is necessary, and to minimise complications that add to the distress and confusion of an already difficult situation. The accredited person should contact the admissions officer to advise of the presentation and to provide the following information:

- person's name, address and date of birth;
- estimated time of arrival;
- risk factors (if any);
- need for any particular security arrangements.

As an accredited person you may not be directly involved in this stage of the process. You should however, ensure that these matters are addressed by another member of the mental health team.

Chapter 10

REFLECTING ON YOUR PRACTICE

"The scheduling event is a complex experience. Clinicians practice in an ad hoc fashion, not based on any evidence other than how it is always done, how they are taught on the job, and what they believe needs doing. The relatives of people who are scheduled see the event as both distressing and relieving; a way to bring an end to pain and distress, and a way of achieving either treatment or respite for their loved one. Those who are scheduled [commonly] see the benefit of this 'final action' and accept its results, albeit not its means." (Fiorillo, 2001).

While some aspects of involuntary treatment have been studied, to date little attention has been paid to the scheduling process itself. A NSW study (Fiorillo, 2001) however, explored the subjective experiences of those most involved: the clinicians, the person scheduled and their relatives. The following provides a brief summary of some of the best and worst aspects of the procedure as reported by the participants in this study and their views on how the process could be improved.

WHEN THE PROCESS GOES WELL?

Clinicians valued:

- the time to provide support;
- gentleness shown by those involved in containing the person;
- the provision of thorough information;
- good communication between the parties;
- the prompt marshalling of necessary resources.

The person scheduled valued:

- hearing words that expressed care and concern;
- experiencing a personalised interaction with clinician;
- support after discharge.

Relatives valued:

- the clinician's genuine interest and respectful approach;
- a prompt response to the crisis;
- reassurance from the clinician about the decision;
- clear explanations about what was happening and why.

CHALLENGES OF THE PROCESS

Clinicians disliked:

- use of deception and feelings of betrayal;
- distress experienced by those being scheduled;
- lack of resources preventing the provision of less restrictive care;
- family distress;
- where decision overturned by the hospital and person not admitted.

Person scheduled disliked:

- use of coercion e.g. involvement of police;
- their own passivity and resignation;
- being left out of the discussion about admission and treatment planning;
- lack of support through the process.

Relatives disliked:

- breakdown of relationships after family member scheduled;
- use of deception and lying to their relative;
- police involvement;
- sense of helplessness;
- lack of support from the clinicians.

MAKING IMPROVEMENTS

The following general themes emerged:

- improving family involvement where possible during and after the scheduling event;
- discussing the options with the person to be scheduled at the time;
- providing information to relatives throughout the process;
- ensuring that the person has the opportunity to talk about their experience of being scheduled;
- follow-up and early intervention after discharge.

"It was very helpful just to review the whole scheduling procedure. It was, I think, just a week after she was admitted to hospital. I went and sat and talked to her about the whole process. She found it helpful just to talk about it. We talked about how the experience was, what it was like with the police officers coming and getting her. I think we neglect [this] and we shouldn't. Because afterwards, months later, it's just so far away and [we] have to go back over it when we could have just talked about it [there and then]." (Angela)

"Families don't know what is going on because of the stigma of mental illness. They don't say anything, don't talk to anybody, and it may be too late when somebody is scheduled. Certainly I would think that if anyone was working with someone on an ongoing basis then part of their role would be to educate both the family and the client about the Mental Health Act." (Louise)

Appendices

DECLARED MENTAL HEALTH FACILITIES

A list of declared mental health facilities can be obtained by emailing the Mental Health Branch at MOH-mentalhealthbranch@health.nsw.gov.au. The email should indicate which of the three classes of listings is required – Emergency, Inpatient or Community.

NSW HEALTH – NSW POLICE FORCE MEMORANDUM OF UNDERSTANDING 2018

https://www.health.nsw.gov.au/mentalhealth/Publications1/mou-health-police-2018.pdf

http://internal.health.nsw.gov.au/communications/police/mou-faqs.html

Schedule 1

NSW GOVERNMENT Health

Facility:

FAMILY NAME	MRN
GIVEN NAME	☐ MALE ☐ FEMALE
D.O.B. ____/____/____	M.O.
ADDRESS	
LOCATION	
COMPLETE ALL DETAILS OR AFFIX PATIENT LABEL HERE	

SCHEDULE 1 – MEDICAL CERTIFICATE AS TO EXAMINATION OR OBSERVATION OF PERSON

SMR020100

MENTAL HEALTH ACT 2007
(SECTION 19)

PART 1

I, _____ (Medical Practitioner/Accredited person)
(name in full – use block letters)

of _____ certify that

on _____ 20____ immediately before or shortly before completing
(date)

this certificate, at _____
(state place where examination/observation took place)

I personally/by audio visual link examined / personally/by audio visual link observed

_____
(name of person in full)

for a period of _____
(state length of examination/observation)

I certify the following matters:

1. I am of the opinion that the person examined/observed by me is *[strike out alternative that is not applicable]*:
   (a) a mentally ill person suffering from a mental illness and that owing to that illness there are reasonable grounds for believing that care, treatment or control of the person is necessary for the person's own protection from serious harm or for the protection of others from serious harm,
   (b) a mentally disordered person whose behaviour for the time being is so irrational as to justify a conclusion on reasonable grounds that temporary care, treatment or control of the person is necessary for the person's own protection from serious physical harm or for the protection of others from serious physical harm.
2. I have satisfied myself, by such inquiry as is reasonable having regard to the circumstances of the case, that the person's involuntary admission to and detention in a mental health facility are necessary and that no other care of a less restrictive kind is appropriate and reasonably available to the person.
3. Incidents and/or abnormalities of behaviour and conduct (a) observed by myself and (b) communicated to me by others (state name, relationship and address of each informant) are:

(a) _____

_____

_____

_____

_____

(b) _____

_____

_____

_____

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SCHEDULE 1 – MEDICAL CERTIFICATE AS TO EXAMINATION OR OBSERVATION OF PERSON SMR020.100

NO WRITING

Page 1 of 4

NSW GOVERNMENT Health

Facility:

SCHEDULE 1 – MEDICAL CERTIFICATE AS TO EXAMINATION OR OBSERVATION OF PERSON

FAMILY NAME	MRN
GIVEN NAME	☐ MALE ☐ FEMALE
D.O.B. _____/_____/_____	M.O.
ADDRESS	
LOCATION	
COMPLETE ALL DETAILS OR AFFIX PATIENT LABEL HERE	

4. The general medical and/or surgical condition of the person is as follows:

_____

_____

_____

5. The following medication (if any) has been administered for purposes of psychiatric therapy or sedation:

_____

_____

_____

6. I am not a near relative or a designated carer or the principal care provider of the person.

7. I have/do not have a pecuniary interest, directly or indirectly, in a private mental health facility. I have/do not have a near relative/partner/assistant who has such an interest. Particulars of the interest are as follows:

_____

_____

_____

Made and signed this _____ day of _____ 20____

Signature: _____

PART 2

The following persons may transport a person to a mental health facility: a member of staff of the NSW Health Service, an ambulance officer, a police officer.

If the assistance of a police officer is required, this Part of the Form must be completed.

YOU SHOULD NOT REQUEST THIS ASSISTANCE UNLESS THERE ARE SERIOUS CONCERNS RELATING TO THE SAFETY OF THE PERSON OR OTHER PERSONS IF THE PERSON IS TAKEN TO A MENTAL HEALTH FACILITY WITHOUT THE ASSISTANCE OF A POLICE OFFICER

I have assessed the risk and I am of the opinion, in relation to

_____

(name of person in full)

that there are serious concerns relating to the safety of the person or other persons if the person is taken to a mental health facility without the assistance of a police officer. The reason for me being of this opinion is

_____

_____

(include any information known about the patient relevant to the risk)

Made and signed _____ 20____ Signature _____

NO WRITING

BINDING MARGIN - NO WRITING

Holes punched as per AS2828-1999

SMR020100

NSW GOVERNMENT Health

Facility:

FAMILY NAME	MRN
GIVEN NAME	☐ MALE ☐ FEMALE
D.O.B. _____ / _____ / _____	M.O.
ADDRESS	
LOCATION	
COMPLETE ALL DETAILS OR AFFIX PATIENT LABEL HERE	

SCHEDULE 1 – MEDICAL CERTIFICATE AS TO EXAMINATION OR OBSERVATION OF PERSON

Notes

1 Sections 13–16 of the *Mental Health Act 2007* state:

13 **Criteria for involuntary admission etc as mentally ill person or mentally disordered person**

A person is a mentally ill person or a mentally disordered person for the purpose of:

(a) the involuntary admission of the person to a mental health facility or the detention of the person in a facility under this Act, or

(b) determining whether the person should be subject to a community treatment order or be detained or continue to be detained involuntarily in a mental health facility,

if, and only if, the person satisfies the relevant criteria set out in this Part.

14 **Mentally ill persons**

(1) A person is a mentally ill person if the person is suffering from mental illness and, owing to that illness, there are reasonable grounds for believing that care, treatment or control of the person is necessary:

(a) for the person's own protection from serious harm, or

(b) for the protection of others from serious harm.

(2) In considering whether a person is a mentally ill person, the continuing condition of the person, including any likely deterioration in the person's condition and the likely effects of any such deterioration, are to be taken into account.

15 **Mentally disordered persons**

A person (whether or not the person is suffering from mental illness) is a mentally disordered person if the person's behaviour for the time being is so irrational as to justify a conclusion on reasonable grounds that temporary care, treatment or control of the person is necessary:

(a) for the person's own protection from serious physical harm, or

(b) for the protection of others from serious physical harm.

16 **Certain words or conduct may not indicate mental illness or disorder**

(1) A person is not a mentally ill person or a mentally disordered person merely because of any one or more of the following:

(a) the person expresses or refuses or fails to express or has expressed or refused or failed to express a particular political opinion or belief,

(b) the person expresses or refuses or fails to express or has expressed or refused or failed to express a particular religious opinion or belief,

(c) the person expresses or refuses or fails to express or has expressed or refused or failed to express a particular philosophy,

(d) the person expresses or refuses or fails to express or has expressed or refused or failed to express a particular sexual preference or sexual orientation,

(e) the person engages in or refuses or fails to engage in, or has engaged in or refused or failed to engage in, a particular political activity,

(f) the person engages in or refuses or fails to engage in, or has engaged in or refused or failed to engage in, a particular religious activity,

(g) the person engages in or has engaged in a particular sexual activity or sexual promiscuity,

(h) the person engages in or has engaged in immoral conduct,

(i) the person engages in or has engaged in illegal conduct,

(j) the person has an intellectual disability or developmental disability,

(k) the person takes or has taken alcohol or any other drug,

(l) the person engages in or has engaged in anti-social behaviour,

(m) the person has a particular economic or social status or is a member of a particular cultural or racial group.

(2) Nothing in this Part prevents, in relation to a person who takes or has taken alcohol or any other drug, the serious or permanent physiological, biochemical or psychological effects of drug taking from being regarded as an indication that a person is suffering from mental illness or other condition of disability of mind.

2 In addition to matters ascertained as a consequence of personally/by audio visual link examining or observing the person, account may be taken of other matters not so ascertained where those matters:

(a) arise from a previous examination of the person, or

(b) are communicated by a reasonably credible informant.

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SMR020.100

NO WRITING

Page 3 of 4

NSW GOVERNMENT Health

Facility:

FAMILY NAME	MRN
GIVEN NAME	☐ MALE ☐ FEMALE
D.O.B. _____ / _____ / _____	M.O.
ADDRESS	
LOCATION	
COMPLETE ALL DETAILS OR AFFIX PATIENT LABEL HERE	

SCHEDULE 1 – MEDICAL CERTIFICATE AS TO EXAMINATION OR OBSERVATION OF PERSON

3 In the *Mental Health Act 2007*, ***mental illness*** is defined as follows:

mental illness means a condition that seriously impairs, either temporarily or permanently, the mental functioning of a person and is characterised by the presence in the person of any one or more of the following symptoms:

(a) delusions,
(b) hallucinations,
(c) serious disorder of thought form,
(d) a severe disturbance of mood,
(e) sustained or repeated irrational behaviour indicating the presence of any one or more of the symptoms referred to in paragraphs (a)–(d).

4 In the *Mental Health Act 2007*, ***designated carer*** and ***principal care provider*** are defined as follows:

71 **Designated carers**

(1) The ***designated carer*** of a person (the ***patient***) for the purposes of this Act is:
(a) the guardian of the patient, or
(b) the parent of a patient who is a child (subject to any nomination by a patient referred to in paragraph (c)), or
(c) if the patient is over the age of 14 years and is not a person under guardianship, a person nominated by the patient as a designated carer under this Part under a nomination that is in force, or
(d) if the patient is not a patient referred to in paragraph (a) or (b) or there is no nomination in force as referred to in paragraph (c):
(i) the spouse of the patient, if any, if the relationship between the patient and the spouse is close and continuing, or
(ii) any individual who is primarily responsible for providing support or care to the patient (other than wholly or substantially on a commercial basis), or
(iii) a close friend or relative of the patient.

(2) In this section:
close friend or relative of a patient means a friend or relative of the patient who maintains both a close personal relationship with the patient through frequent personal contact and a personal interest in the patient's welfare and who does not provide support to the patient wholly or substantially on a commercial basis.
relative of a patient who is an Aboriginal person or a Torres Strait Islander includes a person who is part of the extended family or kin of the patient according to the indigenous kinship system of the patient's culture.

72A **Principal care providers**

(1) The ***principal care provider*** of a person for the purposes of this Act is the individual who is primarily responsible for providing support or care to the person (other than wholly or substantially on a commercial basis).
(2) An authorised medical officer at a mental health facility or a director of community treatment may, for the purposes of complying with a provision of this Act or the regulations, determine who is the principal care provider of a person.
(3) The authorised medical officer or the director of community treatment must not determine that a person is the principal care provider of another person if the person is excluded from being given notice or information about the other person under this Act.
(4) An authorised medical officer or a director of community treatment is not required to give effect to a requirement relating to a principal care provider of a person under this Act or the regulations if the officer or director reasonably believes that to do so may put the person or the principal care provider at risk of serious harm.
(5) A principal care provider of a person may also be a designated carer of the person.

5 For admission purposes, this certificate is valid only for a period of 5 days, in the case of a person who is a mentally ill person, or 1 day, in the case of a person who is a mentally disordered person, after the date on which the certificate is given.

6 An examination or observation may be carried out by audio visual link by a medical practitioner or accredited person if it is not reasonably practicable for a medical practitioner or accredited person to personally examine or observe a person for the purposes of this form.

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SMR020100

Page 4 of 4

NO WRITING

Form 1

NSW Health

Facility:

FAMILY NAME	MRN
GIVEN NAME	☐ MALE ☐ FEMALE
D.O.B. _____ / _____ / _____	M.O.
ADDRESS	
LOCATION / WARD	
COMPLETE ALL DETAILS OR AFFIX PATIENT LABEL HERE	

FORM 1
CLINICAL REPORT AS TO MENTAL STATE OF A DETAINED PERSON

SMR025110

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FORM 1

(Mental Health Regulation 2019 (Clause 5) and
(Mental Health Act 2007, section 27 or 27A)

CLINICAL REPORT AS TO MENTAL STATE OF A DETAINED PERSON

This report is made as:

(tick one box only)

☐ a certificate of the opinion of an authorised medical officer after examination of a person under the Act, section 27(1)(a) (initial examination).

☐ advice by a medical practitioner to an authorised medical officer under the Act, section 27(1)(b) or (c)(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 the Act, section 27, whether the person is a mentally ill person or a mentally disordered person:

This report is made as:

(tick one box only)

☐ a certificate of the opinion of a medical practitioner after examination of a person using an audio visual link in accordance with the Act, section 27A(1)(a).

☐ 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 the Act, section 27A(1)(b)(i).

☐ a certificate of the opinion of an accredited person authorised by the medical superintendent of ..... (name of mental health facility) to examine a person using an audio visual link in accordance with the Act, section 27A(1)(b)(ii).

Note 1. For examinations under the Act, section 27A, 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 the Act, section 27A(4).

Note 2. A medical practitioner or accredited person must not carry out an examination or observation using an audio visual link unless the medical practitioner or accredited person 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 the Act, section 27A(3).

Note 3. Under the Act, section 72B, an authorised medical officer or other medical practitioner or accredited person who examines a person under the Act, sections 27 and 27A, must consider any information provided by the following persons, if it is reasonably practicable to do so:
(a) any designated carer, principal care provider, relative or friend of the patient or person,
(b) any medical practitioner or other health professional who has treated the patient or person in relation to a relevant matter,
(c) any person who brought the patient or person to the mental health facility.

NH606706A 290622

FORM 1
CLINICAL REPORT AS TO MENTAL STATE OF A DETAINED PERSON
SMR025.110

NO WRITING

NSW Health

Facility:

FAMILY NAME	MRN
GIVEN NAME	☐ MALE ☐ FEMALE
D.O.B. _____ / _____ / _____	M.O.
ADDRESS	
LOCATION / WARD	
COMPLETE ALL DETAILS OR AFFIX PATIENT LABEL HERE	

FORM 1
CLINICAL REPORT AS TO MENTAL STATE OF A DETAINED PERSON

I, the undersigned, a registered medical practitioner / an accredited person, on ...../...../..... (date)
examined by audio-visual link / personally examined (cross out as relevant)

..... (patient's name)

a person detained at ..... (name of mental health facility)

In my opinion ..... (patient's name)

(tick one box only)

- ☐ is not a mentally ill or mentally disordered person;
- ☐ is a mentally ill person;
- ☐ is a mentally disordered person.

STRIKE THROUGH UNUSED SECTIONS OF THE FORM (IF NOT APPLICABLE)

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 I made 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. Therefore, it should not be written in technical medical language.

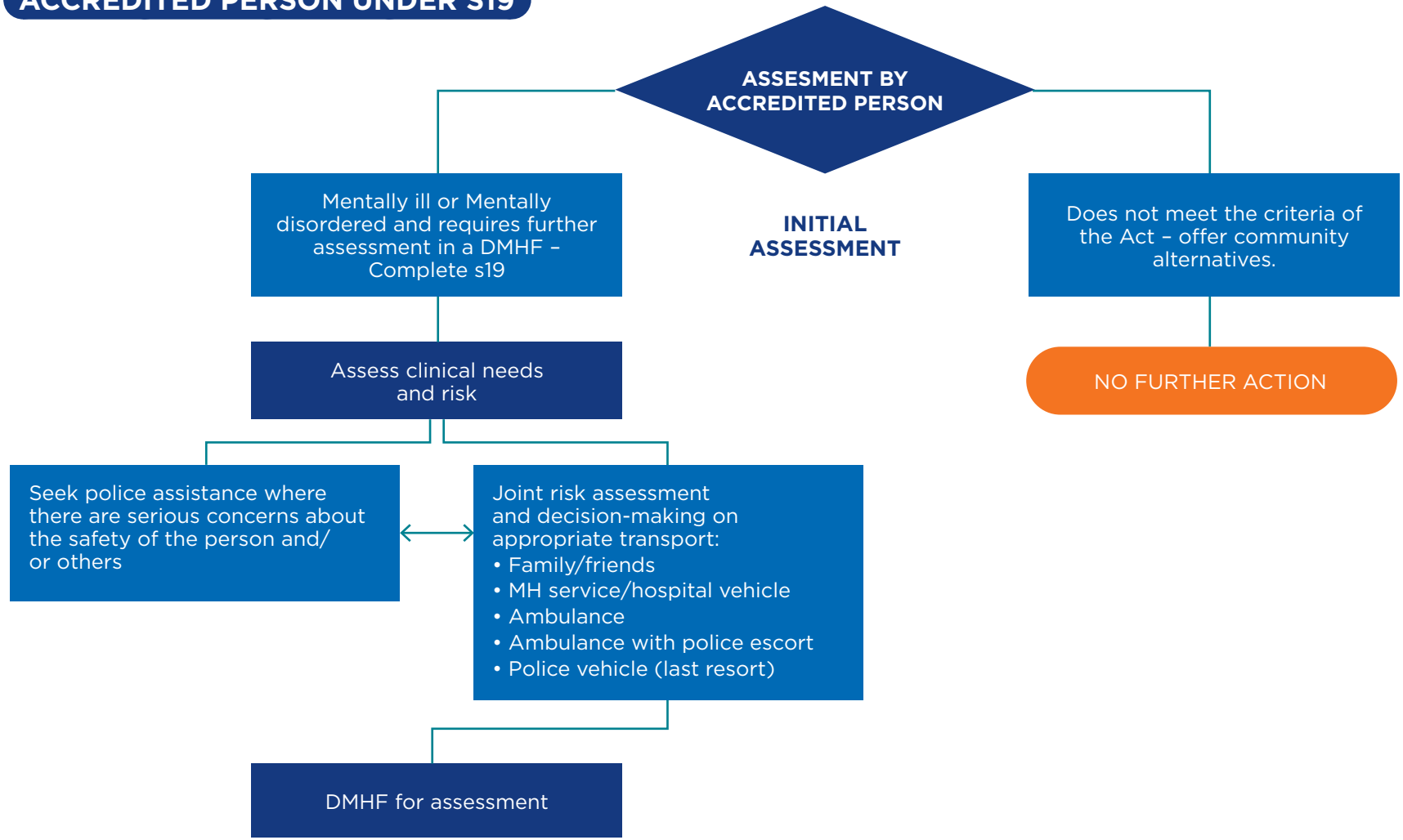
Page 2 of 2

NO WRITING

Holes Punched as per AS2828.1: 2019
BINDING MARGIN - NO WRITING

SMR025110

SCHEDULING PROCESS FOR AN ACCREDITED PERSON UNDER S19



OBTAINING MENTAL HEALTH ACT FORMS

NSW Health staff can order or download Mental Health Act forms from the NSW Health online catalogue, hosted by TOLL: www.tollstreamdirect.com. Forms can also be found on the Ministry's website at: www.health.nsw.gov.au/mentalhealth/Pages/legislation.aspx, however please note that the preferred process for NSW Health staff is to download or order the form from the online catalogue. The staff member who usually orders forms for your service or facility should be able to assist with access.

CONTACTS

MENTAL HEALTH BRANCH, NSW MINISTRY OF HEALTH
http://www.health.nsw.gov.au/mentalhealth/pages/default.aspx
MOH-AccreditedPersons@health.nsw.gov.au

MENTAL HEALTH ADVOCACY SERVICE, LEGAL AID NSW
http://www.legalaid.nsw.gov.au/what-we-do/civil-law/mental-health-advice
02 9745 4277

HETI MENTAL HEALTH PORTFOLIO
www.heti.nsw.gov.au/mhact
02 9840 3833
HETI-MentalHealth-Training@health.nsw.gov.au

TELEPHONE INTERPRETER SERVICE
https://www.tisnational.gov.au/
131 450

TRANSCULTURAL MENTAL HEALTH CENTRE
http://www.dhi.health.nsw.gov.au/tmhc/default.aspx
02 9840 3766
Toll free: 1800 648 911

STARTTS
(Service for the Treatment and Rehabilitation of Torture and Trauma Survivors)
http://www.startts.org.au/
02 9794 1900

NSW REFUGEE HEALTH SERVICE
https://www.swslhd.nsw.gov.au/refugee/
02 8778 0770
Bilingual Counsellors are attached to Local Health Districts

NSW GOVERNMENT

HETI

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