Right of a Patient to Request a Second Opinion

1. Purpose
This Policy outlines the relevant provisions of the Mental Health Act 2016, and the Chief Psychiatrist Policy, regarding the rights of patients, and interested persons for patients, to request a second opinion about the patient’s treatment and care.

The right to request a second opinion about a patient’s treatment and care is part of the clinical governance in an authorised mental health service (AMHS) and ensures there is accountability and oversight for the clinical judgement of authorised doctors. The right to request a second opinion also aims to strengthen the confidence that patients and patients’ support persons have in the quality of mental health services.

2. Scope
This Policy is mandatory for all AMHSs with the exception of section 5.4 which applies to public sector AMHSs only. An authorised doctor, authorised mental health practitioner, administrator of an AMHS, or other person performing a function or exercising a power under the Act must comply with this Policy.

This Policy must be implemented in a way that is consistent with the Objects and Principles of the Act.

3. Authorising Legislation
Section 305(1)(d) of the Mental Health Act 2016.

4. Background
The Act provides that an authorised doctor providing treatment and care to a patient must, to the extent practicable, provide timely, accurate and appropriate information to the patient about the patient’s treatment and care (section 285).

The Act applies if an AMHS has been unable to resolve a complaint about the provision of treatment and care to a patient (section 290). Where this applies, the patient, or an ‘interested person’ for the patient, may request the administrator of the service to obtain a second opinion from another health practitioner, including another psychiatrist, about the patient’s treatment and care.

An ‘interested person’ for a patient is the patient’s nominated supported person or another individual who has a sufficient interest in the patient. An individual who has sufficient interest in the person could be a personal guardian, family member, carer or other support person.

The administrator must make arrangements to obtain the second opinion from a health practitioner who is independent of the patient’s treating team and in the way required in this Policy.
A ‘patient’ is defined in section 276 of the Act as:

- an involuntary patient, or
- a person receiving treatment and care for a mental illness in an authorised mental health service, other than as an involuntary patient, including a person receiving treatment and care under an advance health directive or with the consent of a personal guardian or attorney.

5. Policy

5.1 When Policy applies

This Policy applies if an AMHS has not been able to resolve a complaint made by a patient or an interested person for the patient, about the patient’s treatment and care.

The process at Attachment 1 outlines how requests for a second opinion should be managed, so as to ensure compliance with this Policy.

Any indication of a complaint about a patient’s treatment and care must, in the first instance, be dealt with in accordance with a Hospital and Health Service’s complaints management processes and the Chief Psychiatrist Policy: Management of Complaints about Treatment and Care of Patients.

For a private sector AMHS, action must be taken in accordance with the hospital’s complaints management procedures.

For this Policy to apply, wherever possible, discussions must have occurred between the patient and/or their interested person and the treating team, followed by involvement of a clinical director or the AMHS administrator to attempt to resolve the matter.

Nothing in this Policy prevents a health practitioner at any time requesting a second opinion about a particular patient either on the health practitioner’s own initiative, or upon request of a patient or interested person for the patient. This may apply, for example, if the patient wishes to confirm a clinical diagnosis.

5.2 Documentation

A request for a second opinion must be documented in the patient’s health records. The documentation is to include any specific concerns with the treatment and care provided to the patient, or other matter, as expressed by the patient or an interested person for the patient.

The patient, or an interested person for the patient, must be kept informed of the steps being taken to arrange a second opinion.

5.3 Administrator’s obligations and timeframe

The administrator must ensure that the necessary arrangements are made for a second opinion to be obtained. While timeframes involved will vary on a case-by-case basis (due to factors such as AMHS size and the availability of clinicians), good practice is for a second opinion to be obtained within seven (7) days.

Administrators must ensure that all reasonable and necessary steps are taken to expedite the processes involved in obtaining a second opinion, having regard to the patient’s clinical and other circumstances.
5.4 Credentialing and expenses

A second opinion may be obtained from another health practitioner, including another psychiatrist, who is either within the AMHS or external to it. The health practitioner must be independent of the patient’s treating team. If a health practitioner who is external to an AMHS is engaged to provide a second opinion, the credentialing process (where required) for the practitioner is to be expedited by the AMHS requesting the second opinion.

The AMHS requesting the second opinion is to pay all reasonable expenses incurred by the health practitioner engaged to provide the second opinion, such as travel and accommodation costs.

Arrangements for obtaining a second opinion for a patient in a private sector AMHS are to be made according to local processes and procedures.

5.5 Health practitioner’s obligations

The request for a second opinion about a patient’s treatment and care must be sufficiently clear on the particulars of the request. The health practitioner providing the second opinion must respond to these concerns and also consider any other matters that he or she considers relevant to the patient’s treatment and care. The health practitioner preparing the second opinion must, after examining the patient, provide an independent and professional opinion on these matters.

The health practitioner providing the second opinion must document the opinion in the patient’s health records and advise the treating team and the patient or the interested person of the opinion. The patient’s treating team must consider the opinion and discuss it with the patient or the interested person for the patient.

5.6 If second opinion suggests different treatment or care

If the second opinion prepared by the health practitioner suggests that the patient should be receiving different treatment or care, the health practitioner who prepared the second opinion must discuss the opinion with the patient’s treating team, in an attempt to resolve the appropriate course of action. If a resolution cannot be reached, a clinical director of the AMHS must be contacted for advice.

5.7 Involvement of Chief Psychiatrist

Administrators may contact the Chief Psychiatrist for advice as necessary. If the provision of a second opinion does not resolve the patient or interested person’s concerns, the matter may be escalated to the Chief Psychiatrist for consideration. Before a matter is escalated to the Chief Psychiatrist, all other avenues for resolution must be exhausted, and a matter may only be escalated on endorsement of a clinical director.

6. Supporting Documents

- Attachment 1 – Process for Obtaining a Second Opinion
- Chief Psychiatrist Policy: Management of Complaints about Treatment and Care of Patients
- Chief Psychiatrist Policy: Patient Records
Issued under section 305 of the Mental Health Act 2016

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Process for obtaining a second opinion

Complaint made by patient or interested person* to staff member of AMHS about treatment and care

- Take action to resolve complaint in accordance with HHS complaints management processes or for private AMHSs in accordance with hospital processes
- Have regard to Chief Psychiatrist Policy: Management of Complaints about Treatment and Care of Patients

Manage as required and discuss situation with clinical director or administrator if necessary

Complaint Resolved?  

- No
  - Section 290 is triggered
  - Patient or interested person* requests administrator to obtain a second opinion about patient’s treatment and care
  - Request must specify particular issues of concern and be documented in patient record

- Yes
  - No further action required
  - Document outcome in patient record

Administrator must make arrangements to obtain second opinion within 7 days

Second opinion provided to patient or interested person

- Health practitioner providing second opinion must document outcome and discuss with treating team and patient or interested person*
- Treating team must have regard to second opinion and discuss with patient or interested person*
- If second opinion suggests different treatment or care, health practitioner and treating team must attempt to resolve concerns. Clinical director can be involved

Second opinion resolves concerns?

- Yes
  - No further action required
  - Document outcome in patient record

- No
  - Escalate to chief psychiatrist on endorsement of clinical director

*Interested person means: person’s nominated support person, or another individual who has a sufficient interest in the person