

MENTAL HEALTH SERVICE BUSINESS RULE SESLHDBR/010

Name	Mental Health Consumer Rights and Responsibilities		
What it is	The business rule provides general information to ensure that mental health consumers are informed about their rights and responsibilities in line with NSW policy and legislation, and that their rights and responsibilities are upheld in the care they receive.		
Risk Rating	Low	Review Date	November 2027
What it is not	The business rule does not provide detailed information about rights related to privacy, consent, children and adolescents or the NSW Mental Health Act. It does not cover rights and responsibilities for mental health staff.		
Who it applies to	Consumers, carers and all Mental Health Service (MHS) staff.		
What to do	<p>The general and specific rights and responsibilities of mental health consumers are embedded in a range of healthcare and legislative documents. All health professionals delivering healthcare must be familiar with the detailed rights and responsibilities outlined in these documents; be able to explain these to consumers, and uphold them in practice.</p> <p>1. General healthcare rights and responsibilities</p> <ul style="list-style-type: none"> • In line with NSW Ministry of Health Policy PD2011_022 Your Health Rights and Responsibilities, every person receiving health services in NSW must be provided with a brochure detailing their general rights and responsibilities. • <i>National Safety and Quality Health Service Standard 1</i> requires consumers' rights to be respected and their engagement in their own care supported. • <i>National Safety and Quality Health Service Standard 2</i> requires health services to work in partnership with consumers, carers, clinicians and other members of the workforce. <p>2. Mental Health rights and responsibilities</p> <p>Standard 1 of the <i>National Standards for Mental Health Services</i> (2010) details specific rights and responsibilities for mental health consumers. The Standards incorporate legislative rights in relation to consent, privacy, health records and information, and treatment. Mental Health Services will need to provide consumers and their carers with a written statement, together with a verbal explanation of their rights and responsibilities, in a way that is understandable to them as soon as possible after entering the MHS, and at regular intervals throughout their care.</p> <p>3. Legal rights under the NSW Mental Health Act (2007)</p> <p>A person taken to, or detained in, a declared mental health facility under the Mental Health Act must have their legal rights fulfilled.</p>		

	<p>For a detained person, this includes the provision of a copy of the Statement of Rights for Persons Detained in Mental Health Facility (Section 74 (3) and Schedule 3), which stipulates that:</p> <ul style="list-style-type: none"> • An authorised medical officer of a mental health facility must give an oral explanation and a written statement of consumers' legal rights and other entitlements under this Act. • The explanation and statement must be given as soon as practicable after the person is taken to a mental health facility, or it is decided to take steps to detain the person. • If the authorised medical officer is of the opinion that a person is not capable of understanding the explanation or statement when it is first given, another explanation or statement must be given to the person not later than 24 hours before a mental health inquiry is held about the person. <p>For a voluntary person, this includes the provision of the Statement of Rights for Voluntary Patients form (Section 74A (3)), which stipulates that:</p> <ul style="list-style-type: none"> • An authorised medical officer of a mental health facility must give a person who becomes a voluntary patient of the facility an oral explanation and a written statement of the person's legal rights and other entitlements under this Act. • The explanation and statement must be given as soon as practicable after the person becomes a voluntary patient of the mental health facility, whether or not the patient was a patient or detained in the facility immediately before becoming a voluntary patient. • If the authorised medical officer is of the opinion that the person is not capable of understanding the explanation or statement when it is first given, another explanation or statement must be given to the person if the person becomes capable of understanding the explanation or statement. <p>The authorised medical officer must, if the person is unable to communicate adequately in English but is able to communicate adequately in another language, arrange for the oral explanation to be given in that other language.</p>
<p>When to use it</p>	<p>Mental Health rights and responsibilities</p> <p>Information for mental health consumers should be provided to consumers, persons detained, designated carers and principal care providers upon initial contact with the hospital and/or community MHS, or at the earliest time thereafter. The information should be explained in a way that is understandable, and be repeated as often as necessary - especially if the consumer or carer is unsure about their rights. The MHS Consumer Rights and Responsibilities brochure should be used to complement the Statement of Rights, NSW Your Healthcare - Rights and Responsibilities booklet and other relevant information.</p>

	<p>Legal Rights An explanation of <i>Rights under the Mental Health Act 2007</i> and written statement must be provided:</p> <ul style="list-style-type: none"> • As soon as practicable after the person: <ul style="list-style-type: none"> ○ is taken to a mental health facility or it is decided to take steps to detain the person, OR ○ becomes a voluntary patient of the mental health facility, whether or not the patient was a patient or detained in the facility immediately before becoming a voluntary patient. • If the authorised medical officer is of the opinion that a person is not capable of understanding the explanation or statement when it is first given, another explanation or statement must be given to the person not later than 24 hours before a mental health inquiry is held about the person.
<p>How to use it</p>	<ul style="list-style-type: none"> • Every consumer must have their rights and responsibilities verbally explained to them. For children under 18 years, a guardian should be present when the information is explained. • Evidence of an oral explanation and written statement must be documented in their clinical health record. This includes the consumer and (where indicated) carer signing the <i>Rights and Responsibilities</i> domain at the end of the <i>Consumer Wellness Plan</i>, or - if the consumer is unable to sign or refuses, clearly documenting this and the reason/s why. • All written and verbal information should be provided with consideration of cultural, language, religious and gender diversity. The provision of translated material, professional interpreters, Bilingual Counsellors, Aboriginal Health Workers or Aboriginal Mental Health Workers should be considered. • If family/carers are present at the first point of contact - with the consumer's consent, staff members should engage and involve them in the provision of information about rights and responsibilities. If they are not present at the time, staff are encouraged to seek consumers' consent about providing families or carers with this information. In the instance of an admission to an inpatient facility, the designated Carer as identified under the NSW Mental Health Act (2007) must be engaged and provided with the information.
<p>Why the rule is necessary</p>	<ul style="list-style-type: none"> • Aligns with the Australian Charter of Health Care Rights. • Facilitates a platform for co-production, trust and respect, and enhances collaboration between consumers and healthcare providers to improve quality and enhance outcomes. • Recognising consumers' rights reinforces national, legal and ethical obligations of health workers to honour those rights. • Ensuring that information about rights is provided to all consumers is a legal requirement of the NSW Mental Health Act 2007. • Facilitates commitment to a safe and consumer-led health service, as people seeking or receiving healthcare may not always be in the position to self-advocate.
<p>Who is responsible</p>	<p>It is the responsibility of all clinical staff within the Mental Health Service to inform consumers (and their carers) of their rights and</p>

	responsibilities. The conveying of consumer rights is to be included in staff orientation processes.
References	<ul style="list-style-type: none"> • Australian Charter of Health Care Rights • Living Well: A Strategic Plan for Mental Health in NSW 2014-2024 • MHCC Recovery Oriented Language Guide (2022) • National Safety and Quality Health Service Standards • NSW Ministry of Health Policy Directive PD2011_022 Your Health Right and Responsibilities • NSW Mental Health Act 2007 • Statement of Rights for Persons Detained in Mental Health Facility (Section 74 (3) and Schedule 3) • Statement of Rights for Voluntary Patients from (Section 74A (3)) • Translations of the Mental Health Act 2007 Schedule 3 Statement of Rights for person Detained in mental health facilities. • SESLHD Mental Health Admission Checklist • SESLHD Mental Health Consumer Rights and Responsibilities brochure (NHSIS0604)
Functional Group	Mental Health
Executive Sponsor	General Manager, Mental Health Service
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Revision and Approval History

Date	Revision Number	Author and Approval
June 2012	1	Jo Sommer: Rehabilitation Coordinator Update to new LHD structure.
Aug 2012	2	Jo Sommer: Rehabilitation Coordinator Natalie Cutler: Essentials of Care Coordinator New information presented.
Oct 2012	3	Endorsed out of session by the Policy Development Committee
June 2017	4	Revised by SELSHD District MHS Policy Officer; included Section 74A (3) and community diversity. Review by SESLHD District MHS Rehabilitation Coordinator.
August 2017	4	Endorsed by DDDCC and Executive Sponsor.
October 2017	4	Minor review - processed by Executive Services and approved for publishing.
September 2022	5	Routine review commenced. Executive Sponsor and Author details updated. Links checked and updated.
October 2022	5.1	Sent to DDCC for review and feedback
November 2022	5.2	Updated reference table. Corrected linked form under Statement of Rights for a Detained Person. Endorsed DDCC. Endorsed Executive Sponsor.