

SESLHD GUIDELINE COVER SHEET



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AUTHOR	Dr Linda Sheahan, Head and Clinical Ethics Consultant, SESLHD Clinical Ethics Service; Dr Narcyz Ghinea, SESLHD Clinical Ethics Project Officer
POSITION RESPONSIBLE FOR DOCUMENT	Head, SESLHD Clinical Ethics Service linda.sheahan@health.nsw.gov.au / seslhd-clinicaethics@health.nsw.gov.au
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SUMMARY	This guideline outlines steps required for clinical teams to fairly and defensibly issue an Inability to Treat Notice to patients who are violent toward staff and/or other patients.

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Section 1 – Preamble and Background

PREAMBLE

This guideline has been developed by the SESLHD Clinical Ethics Service to support teams in managing patients who repeatedly and knowingly display violence and aggression toward staff. It *does not* apply to patients with impaired capacity of any cause¹, or patients with mental health disorders requiring psychological intervention and support. It is also important to state at the outset that the clinical situations that give rise to these types of issues are generally complex and evolving, and this can impact on the facts underpinning decisions. Careful consideration should be undertaken to ascertain any underlying modifiable drivers for violence or aggression before proceeding down a pathway toward formally considering issuing an “Inability to Treat Notice”.

Consistent with the related SESLHD guidance [SESLHDPR/341 - Violence Prevention and Management](#), this focus of this guideline is staff management and care of admitted patients in acute and sub-acute inpatient facilities. It is not specifically designed for community settings, such as outreach clinics or patient homes, though many of the procedural steps may apply with some adaption of roles and responsibilities in those settings.

BACKGROUND

The SESLHD exists to support the health and well-being of the people it serves. While disagreements between clinical staff, patients, and carers do occur, they must be navigated with respect for all persons involved. There is **zero tolerance for any violence**, which includes “any incident or behaviour in which staff feel abused, are threatened or assaulted in circumstances arising out of, or in the course of, their employment including verbal, physical or psychological abuse, threats or other intimidating behaviours, intentional physical attacks, aggravated assault (an attack causing serious bodily harm), threats with an offensive weapon, sexual harassment and sexual assault” (refer to [SESLHDPR/341](#)).

Clinical staff can find themselves in a particularly difficult situation when they manage a conflict between what they think is in the best interests of their patient, and their own well-being or that of their colleagues. The best interests of the patient underpin clinical care and may require flexibility in response to complex or challenging behaviours. However, the delivery of care is not unconditional, and any threats or acts of violence can create legitimate grounds for discontinuing clinical treatment as outlined in the [NSW Health Policy Directive PD2015_001 - Preventing and Managing Violence in the NSW Health Workplace – A Zero Tolerance Approach](#).

¹ Examples would include persons with delirium or dementia, or behavioural disturbance due to drug or alcohol intoxication requiring health care intervention.

The SESLHD Clinical Ethics Service has been consulted regarding situations in which clinical staff feel threatened by patients under their care, yet are unsure of what to do to protect themselves or others. While the well-being of patients is central to healthcare delivery, all employers have a duty of care to employees via work health and safety legislation, common law and policy. Any decision to suspend or discontinue a therapeutic relationship with a patient is a serious one, and the process leading up to this decision must be careful and rigorous, and conducted in accordance with the principles of procedural fairness. This Guideline aims to assist clinical staff, and managerial staff with direct responsibility for frontline staff, by outlining **steps that can be taken to issue an “Inability to Treat Notice”** to a patient due to acts of violence in a way that complies with the principles of procedural fairness.

The steps outlined in this document elaborate upon those described in section 5 of [SESLHDPR/341 - Violence Prevention and Management](#). For community workers, also see [SESLHDPR/323 - Working in Isolation Risk Management](#). **This guideline does not apply to immediately life-threatening or emergency situations, or to patients whose primary medical condition has led to disordered thought or delirium resulting in aggressive behaviour.** In those circumstances, guidance can be sought from the relevant clinical policy and procedure documents at: <https://www.seslhd.health.nsw.gov.au/policies-and-publications>.

Section 2 – Responsibilities

The Admitting Medical Officer is responsible for:

- Coordinating and leading the development of an interdisciplinary and structured management plan for patients who are being violent to staff or others.
- Leading coordinated interdisciplinary meetings with patients to discuss concerns about their behaviour.
- Briefing program Co-Directors on the proposed plan.

The Nursing Unit Manager is responsible for:

- Actively participating in the development of a plan for managing violent patients.
- Attending meetings with patients to discuss the concerns about their behaviour.
- Ensuring support is offered to staff members and others who experience violent behaviour in the workplace.
- Ensuring incidents are reported via the IMS+ system.
- Ensuring records of meetings, Notices, and Agreements are accurate and comprehensive, and kept in a centralised and accessible location, compliant with privacy obligations.
- Escalating cases to senior management.

The Program Co-Director is responsible for:

- The safety and wellbeing of staff under their direction.
- Working collaboratively with the clinical team in coordinating an overall approach to managing violent patients.
- Meeting with the patient prior to the drafting of an Inability to Treat Notice and escalating the issue to the Director of Clinical Services if necessary or to seek advice.

The Director of Clinical Services is responsible for:

- The safety and wellbeing of staff who report to them.
- Working collaboratively with the clinical team in coordinating an overall management approach to violent patients.
- Meeting with the patient prior to the issuing of an Inability to Treat Notice if requested by the Program Co-Directors.
- Seeking approval from the Chief Executive to issue an ITTN.

The Chief Executive is responsible for:

- Reviewing, and, where appropriate, approving and executing an ITTN which is then issued by the Director of Clinical Services or General Manager of the facility.

Section 3 – Steps towards issuing an Inability to Treat Notice

The following steps should be considered if staff feel endangered or feel violence is imminent violence due to behaviours such as threats, aggression or abuse. The guiding principles set out below apply **from the first instance of violence**. Exact steps to be undertaken in any particular case are at the discretion of the relevant Department or Unit, with guidance and support from senior management. Any decision to discontinue treatment must be justifiable and clearly documented.

The following three principles apply at each step, and at all times:

1. **Act to protect your personal safety at all times.** Clinical staff should attend to the patient in pairs, ensure they have clear access to safe exits, and maintain a safe distance as necessary. Consider if the presence of a Security Officer is necessary for protection or to avoid escalation. Managers should rotate staff to share the work, and ensure staff who are victims of violence are provided with appropriate support including counselling. Staff who are victims of violence should not be required to continue working with the patient who has acted toward them in a violent manner.
2. **Formally involve the police where appropriate.** There may be occasions where it is warranted to report battery or assault/ threats of harm to the Police. While no organisational permission is required for staff to report an incident to the Police, consultation with a line manager is recommended before doing so. When reporting any incident to the Police, staff discretion is advised in assessing the level of the patient's insight and intent. Maroubra Police can be contacted on (02) 9349 9299. St George Police Station can be contacted on (02) 8566 7499. Miranda Police can be contacted on (02) 9541 3899. Day Street Police Station (Sydney City) can be contacted on (02) 9265 6499.
3. **Clearly and formally document all behaviour of concern** in order to comply with the principles of procedural fairness. Document any threats, abuse or violence in the medical record, inform your manager of each instance of violence, and report each instance in the Incident Management System. It is also recommended that a copy of any and all Notices, Contracts, and Agreements issued, should be given to the patient, placed in the bedside chart, and documented clearly in the medical record.

Keeping the principles above in mind, relevant staff member(s) should follow the steps outlined below.

Step 1

Convene a team meeting to debrief about the behaviour of concern, decide on immediate risk management steps, and communicate the planned approach to other staff members. Attendees should at a minimum include the person who experienced the behaviour, the Admitting Medical Officer, the Nursing Unit Manager, a social worker, and a carer or support person for the patient.

Step 2

Arrange a meeting with the patient to discuss their behaviour, understand its potential causes, to request a change in behaviour and discuss ways in which the patient can be supported to change the behaviour. This meeting should involve the Admitting Medical Officer and the Nursing Unit Manager or delegate, as well as a social worker, and carer or support person for the patient. Alert Security Managers and their teams to the planned meeting with the patient. Security staff do not necessarily need to be involved in the meeting, as this may escalate behaviour, however they can locate themselves nearby so they can respond quickly if their presence is required. Face-to-face meetings should always occur in a space equipped with a duress alarm. In the first instance, **A Behavioural Request Notice** should be issued to the perpetrator, signed by the treating physician and Nursing Unit Manager. Notes of the meeting should be documented clearly in the eMR. The Program Co-Directors should be informed about the request notice.

Step 3

In the case of repeated violence, a second meeting with the patient should be conducted as per step 2, to revisit the issues. If indicated, an **Acceptable Behaviour Contract** should be issued. This contract is to be signed by the Senior Medical Officer, the Nursing Unit Manager or delegate, and the perpetrator. If the perpetrator refuses to sign the contract, this should be documented.

Step 4

The Program Co-Directors and Director of Clinical Services should be formally notified at this time that there is a case of violence/repeated violence. The Senior Medical Officer and Nursing Unit Manager should: **A)** notify the relevant Program Co-Directors in writing with the patients' details, a summary of the problematic behaviour, and attach copies of both the Behavioural Request Notice and the Acceptable Behaviour Contract for their attention and records; and **B)** formally meet with the Director of Clinical Services to discuss and identify further courses of action.

Step 5

If violent behaviour persists, the Admitting Medical Officer, and Nursing Unit Manager or delegate, should meet formally with the perpetrator again, and a **Conditional Treatment Agreement** can be issued specifying specific behaviours that the perpetrator must desist from

or otherwise risk the withdrawal of healthcare services. If the patient refuses to sign the agreement this should be clearly documented in the medical record, and the hard copy of the agreement itself placed in the bedside chart. The Program Co-Directors and the Director of Clinical Services should at a minimum be informed in writing that this contract has been issued, and a copy provided for their records. In some circumstances, the Conditional Treatment Agreement should be issued by the Program Co-Director or Director of Clinical Services as a clear mark of escalating seniority, a recognition of organisational responsibility towards staff, and a clear message to the patient that the organisation takes staff safety seriously.

Step 6

If the perpetrator continues to be violent toward staff, prepare to create firm boundaries around the behaviour in order to keep staff safe. This includes withdrawal of healthcare services if they cannot be delivered safely. The Nursing Unit Manager should formally brief the Program Co-Directors, Director of Clinical Services, as well as the General Manager in writing of the current situation and the steps taken to date to manage it.

Step 7

The Admitting Medical Officer, Nursing Unit Manager, and Director of Clinical Services should meet the patient again, to discuss concerns, and explore potential avenues for ongoing patient management. This discussion should also clearly lay out what will happen if the patient continues to demonstrate violent behaviour (see Step 8). Clear and comprehensive documentation of this discussion should be loaded into the eMR.

Step 8

If agreement about an alternative safe management plan cannot be reached with the patient, an **Inability to Treat Notice** should be issued, which informs the patient that treatment will be ceased until safe arrangements can be made. This needs to be approved by the Chief Executive. Program Co-Directors should compose a brief to the CE outlining the background and requesting approval to issue the ITTN. The Director of CS should approve the brief before it is escalated to the CE. Supporting documentation should be included.

Step 9

Where the CE approves an ITTN, the Program Co-Directors, Director of Clinical Services (or a more senior executive such as the General Manager) along with the Admitting Medical Officer and Nursing Unit Manager should meet with the patient to issue the Notice, and clearly outline the process for removal of the patient from premises, and any follow up plans considered safe in the circumstance. If the patient will not leave the premises, security should be called to be in attendance at all times, and if necessary the police contacted, to escort the patient out.

Step 10

Compile a comprehensive file recording all relevant discussions, notices, and agreements in a single place for ease of reference and review. A copy of any Notice, Contract, Agreement, as well as notes of any meetings, should be kept in the Department/Unit records for reference. Any Notice, Contract, and Agreement should be forwarded to Security Services for their records.

Section 4 – Document resources

Key resources

- [NSW Health Policy Directive PD2015_001 – Preventing and Managing Violence in the NSW Health Workplace – A Zero Tolerance Approach](#)
- [SESLHDPR/341 – Violence Prevention and Management](#)

Consultation History

Date	Stakeholder
21 April 21	SESLHD Clinical Ethics Committee
4 May 21	SESLHD Health, Safety and Wellbeing
17 June 2021	Director of Clinical Services, Prince of Wales Hospital
8 Sept 2021	Spinal Unit Program Co-Director, Prince of Wales Hospital

Version and Approval History

Date	Version	Version and approval notes
3 November 2023	1	Developed by Head and Lead Consultant, Clinical Ethics Service, SESLHD. Approved by Executive Sponsor and SESLHD Clinical and Quality Council.

Appendix A – Overview of critical steps

Initial instance of violent behavior:

- Convene a team meeting to develop a plan on how to manage the violent patient, and communicate this plan to staff.
- Meet with the perpetrator to discuss their behaviour and request a change in behaviour. **A Behavioural Request Notice** signed by the Admitting Medical Officer and Nursing Unit Manager should be issued to the perpetrator.

Repeated instance of violent behaviour:

- Meet with the perpetrator again to request a change in behaviour. An **Acceptable Behaviour Contract** signed by the Admitting Medical Officer, the Nursing Unit Manager, and the perpetrator, should be issued.
- Inform the Program Co-Directors in writing with the patient's details, a summary of the problematic behaviour, and copies of the **Notice** and **Contract**.
- Meet with the Program Co-Directors to agree on management strategy.

If violent behaviour persists despite previous actions:

- The Admitting Medical Officer, and Nursing Unit Manager, should meet with the perpetrator again, and issue a **Conditional Treatment Agreement** specifying problematic behaviours that must be ceased to continue receiving treatment.
- The Program Co-Directors and the Director of Clinical Services should, at a minimum, be informed in writing that this contract has been issued, and a copy provided for their records.

Issuing an Inability to Treat Notice:

- If none of the prior steps have resolved the violence, the Nursing Unit Manager should formally brief the Program Co-Directors, the Director of Clinical Services, as well as the General Manager in writing, outlining steps taken to date to manage it.
- The Admitting Medical Officer, Nursing Unit Manager, and Director of Clinical Services should meet the patient again, to discuss concerns, and explore potential avenues for ongoing patient management. If agreement about an alternative safe management plan cannot be reached with the patient, an Inability to Treat Notice should be issued, which informs the patient that treatment will be ceased until safe arrangements can be made. CE approval is required prior to issuing the Notice to the patient.

Appendix B – Documentation

As noted earlier, the steps outlined in this “Guide for issuing an ‘Inability to Treat Notice’ to violent patients” elaborate upon those described in section 5 of [SESLHDPR/341 - Violence Prevention and Management](#).

For the convenience of readers, copies of templates for key documents are appended here: Behaviour Request Notice, Acceptable Behaviour Contract, Conditional Treatment Notice, and Inability to Treat Notice.

The original templates of these documents can be found in [SESLHDPR/341 - Violence Prevention and Management](#).

Behaviour Request Notice

Ref No:

You are receiving this request because your behaviour is:

- Causing other patients distress or concern for their safety.
- Causing health care staff distress or concern for their safety.
- Causing health care staff concern for your safety.

Please be aware that we are endeavouring to attend to everyone’s needs and we appreciate that the situation may be worrying and stressful for you. The public and our staff have an expectation that we maintain an environment that is safe and without fear, personal offence or distress for patients, visitors and workers. We are asking for your assistance in modifying your behaviour to help us provide a safe and calm environment. In turn, as part of this agreement we will endeavour to understand your concerns and meet your needs for you and your companion/family member’s benefit.

If you feel you have been unfairly treated you are welcome to contact the Consumer Complaints Officer on *(Insert phone No)* between 8:00am – 4:30pm, Monday to Friday. All matters will be held in the strictest confidence. We thank you in advance for your assistance in this matter.

Authorised by:

Name: _____

Position: _____

Signature: _____

Date: _____

Acceptable Behaviour Contract

Ref No:

This contract is made on: *[add date]*

The contract will last until: *[add date]* - subject to collaborative review

This agreement is between: *[Add Facility/Service name]* And *[Name of person to whom the contract applies]*

Address

1. I *[name of person to whom the contract applies]* agree to the following in respect of my future behaviour and/or actions while receiving health care services from *[Add Facility/Service name]*.
2. In addition, I enter into an agreement, with all Health Care Agencies involved in my care, not to act in a manner which causes, or is likely to cause, or threatens to cause, harassment, alarm or distress to any person, or to damage property within the locality of *[Add Facility/Service name]*.
3. I fully understand the meaning of this agreement and am aware that if I breach this agreement an application under the Inclosed Lands Protection Act 1901 may be made and/or legal action may be taken on behalf of the person/s affected. (Please detail any other actions that may be taken if the contract is breached).
4. Declaration – I confirm that I understand the meaning of this contract, the consequences should I breach it and I have had the opportunity to ask questions.

Patient/Client Name: _____

Signature: _____

Date: _____

Authorised by:

Name: _____

Position: _____

Signature: _____

Date: _____

cc Patient/client file, Security, (Specified Hospital Services), or HPE Content Manager
Reference

Conditional Treatment Notice

Ref No:

I, *[The patient or the guardian representing the patient]* agree to comply with the requirements set out for my behaviour below while on *[Facility]* grounds, receiving medical treatment.

The behaviour that I must not engage in while on facility grounds and/or receiving treatment is:

[Describe behaviour]

I understand that I must continue to manage my behaviour and not engage in any of the above acts to continue to be eligible for my current and future treatment needs.

I understand that my agreement must be ongoing and my failure to comply with the requirements of this arrangement, without suitable reason, including compliance with the monitoring requirements, may preclude me from continuing to receive treatment from *[name of Facility/Service]*.

I understand that other patients and health service workers have a right to a safe environment free from hostile acts which may cause fear or personal concern. I appreciate that this agreement constitutes a warning, and while the Health Service is willing to work with me to address my health needs I understand I must behave in an appropriate manner.

If this agreement is broken I understand that it may result in the following consequences:

- Withdrawal of health care services at *[name of Facility/Service]*.
- The application for civil action under the Inclosed Lands Protection Act 1901 by the *[name of Facility/Service]*.
- An inability for me to receive any treatment at *[name of Facility/Service]* apart from life threatening circumstances.

Patient/Client Name: _____

Signature: _____

Date: _____

Authorised by:

Name: _____

Position: _____

Signature: _____

Date: _____

cc Patient/client file, Security, (*Specified Hospital Services*), or *HPE Content Manager Reference*

Inability to Treat Notice

Ref No:

[Patient Name]

[Patient Address]

Dear *[Patient Name]*

Further to our *[name of facility]* Behaviour Warning Notice on *[date and time]*, Agreement for Treatment under Conditional Arrangements on *[date and time]*, and Acceptable Behaviour Contract with you on *[date and time]*, I am again writing to you concerning your behaviour.

While we have made every effort in consultation with you to help make clear the behaviours you are required to maintain while in our care, your behaviour continues to place yourself, other patients and our workers at risk of harm. In line with our commitment to provide a safe environment for our patients and a work environment that is free from verbal or physical intimidation or abuse we are now placed in a position of refusing your access to our services, the only exception being life threatening circumstances.

Central to our ongoing efforts to provide for your health care needs, I am writing to advise you that you will only be able to receive treatment for non-life threatening conditions by any of our staff if you are accompanied by police or are held in a police cell with police present at the time of treatment.

I accept that these arrangements are less than optimal though we have come to determine that this is the only safe option left available to yourself and our workers. I would like to thank you in advance for your adherence to this notice and wish to confirm that we will continue to monitor your behaviour toward hopefully returning to a more amicable health care arrangement.

Yours sincerely

[Name General Manager/Service Director] [Facility/Service]

Date:

cc Patient/client file, Security, (Specified Hospital Services), or HPE Content Manager
Reference