

SESLHD GUIDELINE COVER SHEET



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EXECUTIVE SPONSOR	Director, Clinical Governance and Medical Services
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 a Notice of Inability to Treat to patients who are violent toward staff and/or other patients.

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Notice of Inability to Treat: guide for issuing to violent patients

Section 1 – Preamble and Background 3

Section 2 – Responsibilities..... 5

Section 3 – Steps towards issuing an Inability to Treat Notice 7

Section 4 – Document resources..... 11

Appendix A – Overview of critical steps..... 12

Appendix B – Documentation 14

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 conditions 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 “Notice of Inability to Treat”.

Consistent with the related SESLHD guidance [SESLHDPR/341 - Violence and Prevention 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

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 “Notice of Inability to Treat”** to a patient due to acts of violence in a way that complies with the principles of procedural fairness.

Providing Care and support to Aboriginal Patients

Refer to the guideline [SESLHDGL/088 - Comprehensive Care](#) - Comprehensive care for Aboriginal and Torres Strait Islander People.

When working with Aboriginal and Torres Strait Islander patients and families, it is important to recognise the historical trauma that healthcare systems have placed on Aboriginal people. This can cause fear and mistrust in the healthcare system which may lead to elevated feelings of distress, vulnerability, and disempowerment. A referral to the Aboriginal Hospital Liaison Officer can be made to provide cultural support to the Aboriginal patient and act as a third party to express the needs and concerns of the patient. The Aboriginal Hospital Liaison Officer should be involved in the development of the care plan and provide culturally appropriate strategies to assist in de-escalation. Ward staff should ensure the safety of the Aboriginal Hospital Liaison Officer when visiting the patient.

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 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/Divisional Directors on the proposed plan.

The Nursing/Midwifery 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 Incident Management System Plus (MS+).
- Ensuring records of meetings, Notices, and Agreements are accurate and comprehensive, and kept in a centralised and accessible location, compliant with privacy obligations.
- In the instance that a patient identifies as Aboriginal, ensure that a referral to the Aboriginal Hospital Liaison Officer is made to provide advice and work with the team.
- Escalating cases to senior management.

The Program Co-Director/Divisional 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.
- In the instance that a patient identifies as Aboriginal, ensuring any involvement of an Aboriginal Hospital Liaison Officer is adequately supported by their manager and the Director. Meeting with the patient prior to the drafting of a Notice of Inability to Treat and escalating the issue to the Director of Clinical Services if necessary or to seek advice.

The Facility Director of Clinical Services (however named) 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.
- In the instance that the patient identifies as Aboriginal, escalating the case to the Director of Aboriginal Health to seek advice regarding potential mitigation strategies and consideration of issuing a Notice of Inability to Treat.

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- Meeting with the patient prior to the issuing of a Notice of Inability to Treat if requested by the Program Co-Directors/Divisional Directors.
 - Escalating to the Facility General Manager to seek approval from the Chief Executive to issue a Notice of Inability to Treat.

The Chief Executive is responsible for:

- Reviewing, and, where appropriate, approving and executing a Notice of Inability to Treat 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 due to behaviours such as threats, aggression or abuse. To reiterate, careful consideration should be given to any underlying modifiable drivers for violence or aggression before proceeding down a pathway toward formally considering issuing an “Notice of Inability to Treat”. This might include explicit assessment of cognitive or mental health concerns or consideration of culturally appropriate strategies in care for a patient who identifies as Aboriginal.

The guiding principles set out below apply **from the first instance of violence**. As noted above, violence includes verbal, physical or psychological abuse, threats or other intimidating behaviours, and assault. 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) 92656499.
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. Notably, there are alerts available in both IMP and EMR to flag potential levels of risk to involved staff. Further information on managing these alerts is available at <https://www.seslhd.health.nsw.gov.au/policies-and-publications/functional-group/71>.

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/Midwifery Unit Manager, a social worker, and a carer or support person for the patient. Ideally, this meeting should also involve the specialty's Clinical Nurse Consultant and, where available, the service's Complex Care Physician.

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/Midwifery 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 **Warning Notice** should be issued to the perpetrator, signed by the treating physician and Nursing/Midwifery Unit Manager. Notes of the meeting should be documented clearly in the eMR. This information should also be handed over to nursing staff on shift. The Program Co-Directors/Divisional 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, a **Negotiated Conditional Treatment Agreement** should be issued. This contract is to be signed by the Senior Medical Officer, the Nursing/Midwifery 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/Divisional 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/Midwifery Unit Manager should: **A)** notify the relevant Program Co-Directors/Divisional 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/Midwifery Unit Manager or delegate, should meet formally with the perpetrator again, and a **Conditional Treatment Notice** or a **Conditional Restricted Access Notice** can be issued specifying specific behaviours that the perpetrator must desist from or otherwise risk the withdrawal of healthcare services. Alert Security Managers and their teams to the planned meeting with the patient. 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/Divisional 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 Notice or Conditional Restricted Access Notice should be issued by the Program Co-Director/Divisional 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/Midwifery Unit Manager should formally brief the Program Co-Directors/Divisional 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/Midwifery 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, a **Notice of Inability to Treat** 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/Divisional Directors compose a brief to the CE outlining the background and requesting approval to issue the Notice of Inability to Treat. This brief should be approved by the Director of Clinical Services (however named) and the Facility General Manager, before being progressed to the Executive Director of Operations and then the Chief Executive. Supporting documentation should be included.

Step 9

Where the CE approves a Notice of Inability to Treat, the Program Co-Directors/Divisional Directors, Director of Clinical Services (or a more senior executive such as the General Manager) along with the Admitting Medical Officer and Nursing/Midwifery 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. To note, the Notice of Inability to Treat template will designate an expiry date as well as a contact for any requests that the decision be reconsidered.

Section 4 – Document resources

Key resources

- Ministry of Health - WRB Safety and Security Improvement – Condition of Entry and Notices [document templates]
- [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 no:	Version and Approval History
3 November 2024	1	Developed by Head and Lead Consultant, Clinical Ethics Service, SESLHD. Approved by Executive Sponsor and SESLHD Clinical and Quality Council.
11 March 2026	2.0	<p>Addition of references to current NSW Ministry of Health conditions of entry and written notices, consistent with similar updates to SESLHDPR/341 – Violence Prevention and Management and consultation with SESLHD Health, Safety and Wellbeing. Removal of version 1 appendices which referred to now out-of-date notice documents. Language updated throughout to reflect current written notice templates.</p> <p>Additional staff consultation feedback incorporated to clarify/update key issues, including from clinicians, health information managers, the Aboriginal Health Directorate, the Mental Health Service, the Occupational Violence and Aggression taskforce, and the SESLHD Clinical Ethics Committee. Approved by SESLHD Patient Safety and Quality Committee and Chief Executive.</p>

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 Warning Notice** signed by the Admitting Medical Officer and Nursing/Midwifery 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 **Negotiated Conditional Treatment Agreement** signed by the Admitting Medical Officer, the Nursing/Midwifery Unit Manager, and the perpetrator, should be issued.
- Inform the Program Co-Directors/Divisional Directors in writing with the patient's details, a summary of the problematic behaviour, and copies of the **Notice** and **Agreement**.
- Meet with the Program Co-Directors/Divisional Directors to agree on management strategy.

If violent behaviour persists despite previous actions:

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

Issuing a Notice of Inability to Treat:

- If none of the prior steps have resolved the violence, the Nursing/Midwifery Unit Manager should formally brief the Program Co-Directors/Divisional 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/Midwifery 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, a **Notice of Inability to Treat** should be issued by the Chief Executive or their delegate (for example, General Manager), 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 a ‘Notice of Inability to Treat’ to violent patients” elaborate upon those described in section 5 of [SESLHDPR/341 - Violence Prevention and Management](#).

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

These document templates are also available at the Ministry of Health-WRB Safety and Security Improvement site “Condition of Entry and Notices”, including a summary of these notices “**Managing Violent Behaviour Using Written Notices**”:
<https://nswhealth.sharepoint.com/sites/MOH-SASI/SitePages/Condition-of-Entry-and-Notices.aspx>