

31 January 2013



Team 1  
Coroner's Court  
Level 11  
222 Exhibition Street  
MELBOURNE VIC 3000

Dear Sir/Madam

**Inquest into the death of Simon Kirwan**  
**Coroner's Reference: 5243/08**

We refer to the inquest held in relation to the death of Simon Kirwan before Coroner Parkinson on 17 and 18 July 2012.

Coroner Parkinson delivered her findings on 30 November 2012. At the conclusion of her findings, Coroner Parkinson made the following recommendations pursuant to section 72(2) of the *Coroners Act 2008*:

- (a) that the operation of the provisions of the *Mental Health Act 1986* (Victoria) be enhanced by the provision of additional long term inpatient voluntary and involuntary public treatment beds to enable effective assessment, diagnosis and care to be provided to mentally ill patients in Victoria; and
- (b) that a formal process be adopted by public mental health services in Victoria to ensure that families involved in the care and support of mental health patients are notified and consulted when a patient is proposed to be released from inpatient mental health admission. Insofar as this may require an amendment to any Act of Parliament, including the *Mental Health Act 1986* (Victoria) or the *Privacy Act 1988* (Commonwealth), that amendment ought to be considered.

We note that the recommendations are predominantly directed to the Parliament of Victoria and the Commonwealth Parliament. We do however provide the following response to recommendation (b) above given that the recommendation relates to public mental health services.

At the time of Mr Kirwan's death in 2008, Eastern Health did not have any formal policy/procedure in place to ensure that families involved in the care and support of mental health patients were notified and consulted when a patient was proposed to be released from inpatient mental health admission. However, it was part of all psychiatric clinicians' practice to notify a carer/family member about the imminent discharge of a family member where the patient consented.

In 2011, Eastern Health developed and endorsed the enclosed Communication with Families/Carers of Patients Admitted to Psychiatric Inpatient Units Policy (the Policy). Subject generally to the patient's consent and the privacy provisions of the Mental Health Act 1986, the Policy provides that:

- (a) collateral information from a patient's family should be obtained as soon as possible after admission of a patient. Ongoing communication with the family/carers about the progress of a patient's illness and treatment helps to facilitate appropriate decisions being made regarding leave and discharge planning;
- (b) family/carers should periodically be updated about the treatment progress and risks to a patient;
- (c) a patient's risks must be discussed with the patient's family/carer prior to granting leave; and
- (d) families/carers must be contacted for collaborative development of appropriate discharge plans when appropriate to do so.

We trust that this is of assistance to the Court.

Please do not hesitate to contact us if you have any queries.

Yours faithfully



Sue Allen  
Chief Counsel  
Eastern Health

Enc. Communication Policy



Communication  
with  
Families/Carers of  
Patients Admitted  
to Psychiatric  
Inpatient Units

Topics > Mental Health,  
Alcohol & Drug Program >  
MHP Wide - Clinical A-Z >  
Communication with  
Families/Carers of Patients  
Admitted to Psychiatric Inpatient  
Units

Scope: Eastern Health  
Executive Sponsor: ED Cont Care  
Community Mental Health and CAHO  
Policy Status: New  
Last Review Date: 28-10-2011

Policy Number: 2150  
Approving Body: EH Exe  
Committee  
Policy Developed: 14-04  
Next Review Date: 15-04

**Purpose:**

This policy is to guide the treating team when communicating with families/carers of patients admitted into the psychiatric inpatient units. Communication should occur as soon after admission as possible and continue during the course of an admission in an ongoing collaboration about the illness, treatment progress and discharge planning.

**Details:**

**RATIONALE:**

Collateral information from the family should be obtained as soon as possible after admission of the patient. Collateral information helps in developing accurate risk management and appropriate treatment plans. Ongoing communication with the family/carers about the progress of the patient's illness and treatment would help in

appropriate decisions being made regarding leave and discharge planning and help in reducing serious adverse events. It also would address the needs of the families and carers.

**POLICY/GUIDELINES:**

KEY PRINCIPLES:

Families and carers should be recognised, respected and supported as partners in providing care to patients

Families and carers should be engaged as soon as possible during the admission

Clear and open communication and sharing of information between clinicians, patients, families and carers need to occur regularly.

Clinicians should have a sound understanding of the confidentiality provisions of the Mental Health Act

The cultural and language needs of the family and carers need to be considered.

**PROTOCOL/PROCEDURE:**

The senior nurse in the ward or his/her delegate should contact the patient's primary carer about the admission as soon as possible **within the first 24 hours** of admission into the psychiatric unit.

Efforts should be made to gain consent from the patient to contact the family/carer prior to doing so.

Collateral information about the reasons for admission, the families/carers concerns, needs, requests should be taken into consideration as reasonably and as practically as possible when drafting the initial treatment plan.

The information from the family, carer and treating team in the community should be included

in the initial risk assessment and management.

If a patient refuses consent, efforts should be made every time the patient is reviewed to gain consent. Refusal to provide consent is NOT an absolute limitation on contacting the family/carer. The clinical team will have to do a risk benefit analysis to justify going against the patients' request. A second opinion should be considered.

If the patient is admitted under the Mental Health Act and is not in a position to give consent, section 120A (3) of the mental health act allows the clinician to contact the carer.

Sharing of information with the family or carer should be done in keeping with the Privacy Act and Mental Health Act and should not include the divulging of sensitive clinical information.

Families and carers should periodically be updated about the treatment progress and the risks.

Risk must be discussed with the family/carer prior to granting leave. See Policy on Leave.

Families/carers must be contacted for collaborative development of appropriate discharge plans when appropriate to do so.

Family meetings are encouraged based on the family's request, to provide support and share information, at the patient's wish if requested to do so. Ultimately meeting with the family/carer should occur as per the appropriateness of the clinical situation.

## DOCUMENTATION

The treating team including the contact nurse should clearly document

- Discussions with the consumer to obtain



consent for exploring collateral information from the family/carer and to discuss treatment and care if appropriate to do so.

- Contacts with families and carers for the purposes of involvement in treatment and care plans.
- Reasons for non-involvement of the family in a consumer's treatment and care.
- When information recorded is not directly observed, the source that provided the information should be recorded.
- Clinicians need to ensure that information provided in confidence by the family/carer be clearly documented as such. This is important as the information may subsequently be protected according to locally established procedures and legislation such as Freedom of Information.

**Related Policies:**

Clinical Documentation Policy

Leave from inpatient units policy

Treatment Plan for patients admitted to psychiatric units policy

**References/Legislation:**

Mental Health Act Vic 1986

Information Privacy Act 2000

Health records Regulations 2002

Freedom of Information Act 1982

Confidentiality under the *Mental Health Act 1986* - November 2008

Chief Psychiatrist Guidelines Working with families and carers April 2005

Chief Psychiatrist Guidelines  
Discharge planning Guidelines  
August 2002

Chief Psychiatrist Guidelines  
Treatment Plans under the  
Mental Health Act August 2009

Caring together: An action plan  
for carer involvement in  
Victorian public mental health  
services - July 2006

Because Mental Health Matters.  
Victorian Mental health reform  
Strategy 2009-2019.

**Policy History:**

Created April 2011

**Policy Upload:**

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psychiatric inpatient units  
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