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ATTN: Doctors and nurse practitioners: general practice, rural hospitals and EDs

Use of Mental Health (Compulsory Assessment and Treatment) Act 1992 (The Mental Health Act)

Coroner A Ho has made the following recommendation under s57A of the Coroners Act 2006:

“The Ministry of Health should clarify to frontline doctors and nurse practitioners in the community, rural hospitals and emergency departments their legal ability to complete assessment paperwork under s8 of the Mental Health Act”.

This relates to a situation where the attending ED doctor misunderstood their ability to complete **both** forms, the 8A and 8B of the Mental Health Act. This did not materially impact this case, however there is potential it could impact patient outcomes in other similar settings.

As a start:

It is highly recommended, if there are concerns that a person requires support and that the Mental Health Act will be needed, contact is made with a Duly Authorised Officer (DAO) (contactable via the local Mental Health Crisis Team) as soon as practicable. They have the expertise and authority to guide health practitioners through this process. DAOs are appointed with specific legal powers (these are detailed further in this memo) and one of their obligations is to investigate the matter and provide all such assistance, advice and reassurance as may be appropriate in the circumstances (Section 37).

As described the DAO will guide and support however the process is outlined here in summary form for ease of use and the more detailed rationale follows.

- To initiate the Mental Health Act, under section 8B(4)(b) of the Act, a nurse practitioner, medical practitioner or registered nurse working in mental health must ‘consider that there are **reasonable grounds** for believing that the person **may be suffering from** a mental disorder’ before issuing a certificate to accompany an application for compulsory assessment.
- The 8B certificate needs to have an 8A application with it, completed by a person who has seen the person within 3 days of completing the application (8A).

Once the 8A is completed the DAO must, as soon as possible, ensure that the next assessment is completed. This must be done by an appropriately trained mental health practitioner.

The above advice is drawn from:

<https://www.legislation.govt.nz/act/public/1992/0046/latest/whole.html>

<https://www.health.govt.nz/publications/guidelines-to-the-mental-health-compulsory-assessment-and-treatment-act-1992>.



Furthermore, the Ministry of Health recommends all frontline doctors and nurse practitioners in the community, in rural hospitals and in emergency departments, engage with training such as that available on Te Pou <https://www.tepou.co.nz/e-learning> on the application of the Mental Health Act.

Changes to the Mental Health Act now enable remote psychiatric assessment under the Act. Awareness of this may increase the comfort of rural practitioners with completing paperwork under section 8, as where it is safely possible and practicable it no longer requires removing people from their communities for compulsory assessment and treatment.

The Ministry of Health highlights section 38 Mental Health (Compulsory Assessment and Treatment) Act 1992, which describes the role of a Duly Authorised Officer, and that “anyone who believes that a person may be suffering from a mental disorder may, at any time, request the assistance of a Duly Authorised Officer”. This can support practitioners less familiar with the Act in managing patients who may require compulsory assessment and treatment.

Nāku noa, nā

A handwritten signature in black ink, appearing to read 'Joe Bourne', with a stylized flourish extending to the right.

Dr Joe Bourne
Chief Medical Officer
Clinical, Community and Mental Health | Te Pou Whakakaha