

## The Guardianship Application Process for Adult Inpatients of NSW Health Facilities

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**Functional Sub group** Corporate Administration - Governance  
Clinical/ Patient Services - Aged Care  
Clinical/ Patient Services - Mental Health

**Summary** The purpose of this Information Bulletin is to inform NSW Health staff on how to obtain assistance in making submissions to NCAT, arguing that Local Health Districts and Specialty Networks have legal standing to lodge applications for guardianship orders on behalf of inpatients and of changes to NCAT's practice and procedures.

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**Applies to** Local Health Districts, Chief Executive Governed Statutory Health Corporations, Specialty Network Governed Statutory Health Corporations, Environmental Health Officers of Local Councils, Private Hospitals and Day Procedure Centres, Public Hospitals

**Audience** Nursing, Medical, Allied Health, LHDs / SHNs, NSW MoH, Primary Health Networks

**Distributed to** Public Health System, Environmental Health Officers of Local Councils, Ministry of Health, Private Hospitals and Day Procedure Centres

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**Policy Manual** Not applicable

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**Status** Active

## GUARDIANSHIP APPLICATION PROCESS FOR ADULT INPATIENTS OF NSW HEALTH FACILITIES

### PURPOSE

The purpose of this Information Bulletin is to inform NSW Health staff:

1. How to obtain assistance in making submissions to NCAT arguing that Local Health Districts (LHDs) and Specialty Networks have legal standing to lodge applications for guardianship orders on behalf of inpatients, and
2. Of changes to NCAT's practice and procedures.

### KEY INFORMATION

*GL2016\_026: The Guardianship Application Process for Adult inpatients of NSW Health Facilities*, has been developed in collaboration with clinicians from across Local Health Districts and Pillar organisations.

#### **1. Applications should now be made in the name of the LHD or Specialty Network and legal assistance is available to support this change**

The Guideline recommends that applications to NCAT for guardianship orders be made in the name of the LHD or Specialty Network, rather than in the name of an individual health professional. This represents a change to the previous practice of health professionals, typically social workers, lodging applicants in their own name. The primary purpose of this change is to protect individual health professionals from any adverse consequences of being named as a party to Tribunal proceedings.

Where applications are made in the name of the LHD, NCAT may hold a directions hearing, and request submissions on whether the organisation has standing to be an applicant.

Should this occur in respect of an application, please contact Legal and Regulatory Services at the NSW Ministry of Health ([legalmail@doh.health.nsw.gov.au](mailto:legalmail@doh.health.nsw.gov.au) / telephone 9391 9606) so that assistance with preparing and lodging submissions can be provided.

#### **2. Changes to practices and procedures in the Guardianship Division of NCAT**

NCAT has advised that from 1 January 2017:

- The guardianship and financial management application forms will be separated into two forms
- The applicant will be directed to give (serve) a copy of the application and any attachments to the parties and the subject person
- The parties will be directed to give (serve) each other any material instead of the registry distributing it
- All parties will receive a notice of hearing, and
- Prior to the hearing the registry will send a list of the materials provided to the Tribunal to the parties and send the material to the subject person.

Service of a copy of the application and any attachments to the parties and the subject person may be done by providing it to the party, or by posting it to them. Service should be documented by the LHD (for example by making a file note stating that the document was handed to the party or keeping a copy of the covering letter, if service is by post).

## **ATTACHMENTS**

None.