**Admitted Patient Election Processes for NSW Public Hospitals**

**Summary** This Policy Directive provides an up to date process for admissions to NSW Public hospitals, which includes new definitions, new circumstances where a financial election can be altered and a new section on capacity specifically in relation to mental health patients.

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**Secretary, NSW Health**  
This Policy Directive may be varied, withdrawn or replaced at any time. Compliance with this directive is mandatory for NSW Health and is a condition of subsidy for public health organisations.
ADMITTED PATIENT ELECTION PROCESSES FOR NSW PUBLIC HOSPITALS

PURPOSE
This policy directive updates PD2005_221 Admitted Patient Election Processes for NSW Public Patients – Revised to fully align with the National Health Reform Agreement 2011 (NHRA) in particular Schedule G (Business Rules for the National Health Reform Agreement) and other clauses. This Directive will also provide guidance on the changes to election processes to be applied to NSW public hospital admissions.

MANDATORY REQUIREMENTS
Facilities across NSW health are obliged to adhere to these election processes to ensure that the requirements of the NHRA are met.

Hospitals are to:

- ensure that all patient election forms include a statement that all eligible persons have the choice to be treated as either public or private patients;
- that an election by eligible patients to receive admitted public hospital services as a public or private patient will be exercised in writing before, at the time of or as soon as possible after admission and must be in accordance with the minimum standards set out in the NHRA;
- ensure that eligible persons who have elected to be treated as private patients have done so on the basis of informed financial consent;
- only interview Mental Health patients after capacity has been determined by an appropriate healthcare professional.

IMPLEMENTATION
Local Health Districts/Speciality Health Network Chief Executives are to ensure that the requirements of this Policy Directive are communicated to appropriate staff.

Directors of Finance, Revenue Managers and Hospital Administration Staff are responsible for the operational compliance of this policy directive.

REVISION HISTORY

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<th>Version</th>
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<td>January 2005</td>
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<td>Inclusions: list of Definitions; HITH is an “unforeseen circumstance”; requirement of staff to explain the disclosure statements signed by patients; specific reference to mental health patients’ capacity to make election decisions.</td>
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1 BACKGROUND

1.1 About this document

- This Policy Directive has been written to update PD2005_221 with appropriate references to the National Health Reform Agreement 2011 (NHRA), National Healthcare Agreement 2012 and related Agreements to ensure compliance with the National Standards for Public Hospital Admitted Patient Election processes.

- The NHRA requires that all States provide eligible persons with the right to receive, free of charge as public patients, services that are currently or historically provided by public hospitals, and must ensure that eligible persons who have elected to be treated as private patients have done so on the basis of informed financial consent.

- It is a requirement of the NHRA Schedule G – Business Rules for the National Health Reform Agreement that an eligible patient on admission will be given the choice to elect to be a public or private patient in accordance with the National Standards for Public Hospital Admitted Election processes (unless a third party has entered into an arrangement with the hospital or the State to pay for such services). If it is clinically appropriate, the hospital may provide information about alternative service providers, but must provide free treatment if the patient chooses to be treated at the hospital as a public patient.

- Information for patients in NSW hospitals concerning the election process is also included in this document (general principles).

- This Policy Directive refers to the election processes to be applied to mental health admissions to declared mental health facilities in NSW as defined in the Mental Health Act 2007.

- This Policy Directive is for all staff who are involved in the election process for admitted patients.

1.2 Key definitions

Eligible Person: means an Australian resident or an eligible overseas representative.

Public Patient: means an eligible person who receives or elects to receive a public hospital service free of charge.

1.3 Legal and legislative framework

- National Health Reform Agreement 2011
- Health Insurance Act 1973 (Cth)
- Mental Health Act 2007 (NSW)
- Health Records and Information Privacy Act 2002 (NSW)
- Privacy Manual for Health Information NSW Health

1Health Insurance Act 1973 Section 3 Interpretation
2 ADMITTED PATIENT ELECTION INFORMATION – NSW

2.1 Patient Election General Principles

All eligible persons have the choice to be treated as either public or private patients in NSW public hospitals whether they hold private health insurance or not. By completing an election form the patient (or their legally authorised representatives) makes an election to be a public or private patient. A private patient has a choice of doctor, subject to their doctor having admitting rights at the hospital. Choice occurs even where only one doctor (including the doctor on call) has admitting rights at the hospital.

The decision must be freely made based on accurate information and informed financial consent. Where possible, the patient/legally authorised representatives should endeavour to determine if there will be any out of pocket expenses during the admission by discussing this with an appropriate hospital employee, doctor(s) and their health fund. Hospital employees will not direct patients or their legally authorised representatives towards a particular choice.

Elections by eligible patients to receive admitted public hospital services as a public or private patient will be exercised in writing before, at the time of, or as soon as practicable after, admission.

Where a patient chooses to be treated as a public patient, components of the public hospital service (such as pathology and diagnostic imaging) will be regarded as part of the patient’s treatment and will be provided free of charge.

Patients electing to use their private health insurance will be asked to sign an inpatient election form allowing NSW Health to disclose health information relevant to their claim. The National Private Patient Hospital Claim form’s disclosure statement must also be signed. By signing these documents, the patient/legally authorised representatives agrees to permit NSW health to disclose health information in keeping with the Health Records and Information Privacy Act 2002 to their insurer or other parties in order to obtain payment. It is expected that NSW Health staff will advise patients of this disclosure requirement.

Once made, this election can only be changed due to unforeseen circumstances.

Where it is appropriate to change an election due to unforeseen circumstances, that change must not be retrospectively backdated to the date of admission.

In the event that an admitted patient or their legally authorised representatives do not make an election, these patients will be treated as public patients and the hospital will choose the doctor until such time as an election is made. This is called a “deferred election”. Examples of circumstances where this may occur are:

a) emergency admissions after hours in hospitals where staff are not available to organise the completion of the election form until the following working day

b) where the patient is experiencing some or all of the following:
   
   • inability to understand/speak English
where the patient lacks decision making capacity for an election decision and
the legally authorised representatives are not present or available (after
reasonable attempts to contact them) to make the decision on the patient’s
behalf

- unconsciousness
- severe pain
- shock
- dementia; or
- cognitive disability

When a valid election is made that election can be considered to be for the whole episode
of care, commencing from admission.

The transfer of privately insured patients to hospital in the home (HITH) is considered to be
“unforeseen circumstances”. The change in patient status is effective from the date of the
change onwards. These patients can therefore be reclassified to non-charge at the time of
transfer to HITH.

2.2 Workers/Other Compensation/Compulsory Third Party insurance

Even though a patient makes an election at the time of admission, if at some later date the
patient is found to be eligible for compensation under Workers Compensation, Compulsory
Third Party insurance, or under any other type of arrangement (and therefore not eligible
under Medicare arrangements), the patient will be reclassified as compensable from the
time of admission and charged accordingly.

2.3 Capacity to make an election decision

There is a legal presumption that every adult has capacity. Therefore, a patient’s election
decision will be binding unless it has been established that they do not have the capacity to
make that decision. Capacity must be assessed by an appropriate healthcare professional.

Mental health patients admitted as voluntary patients, or detained as involuntary patients,
under the Mental Health Act 2007 do not necessarily lack capacity to make election
decisions. Health Practitioners will need to consider on a case by case basis whether or not
the mental illness or mental disorder suffered by the person is affecting their capacity to
make a valid election decision. Administrative staff, prior to interviewing, must confirm the
patient’s capacity to make an election decision with the health practitioner.

Further information about capacity to make decisions or supported decision-making can be
found on the websites of the NSW Public Guardian, the NSW Trustee and Guardian and the
NSW Civil and Administrative Tribunal (NCAT). Additionally, please see the NSW
or call the Information & Support Branch of the Public Guardian.
3 NATIONAL STANDARDS FOR PUBLIC HOSPITAL ADMITTED PATIENT ELECTION PROCESSES

In accordance with the NHRA, Schedule G24-G30, States and Territories public hospital admitted patient election processes for eligible persons should conform to the national standards.

4 SCHEDULE G: NATIONAL STANDARDS FOR PUBLIC HOSPITAL ADMITTED PATIENT ELECTION PROCESSES G24 – G30 (NHRA)

4.1 Public Hospital Admitted Patient Election Forms

G24. States/Territories agree that while admitted patient election forms can be tailored to meet individual State or public hospital needs, as a minimum, all forms will include:

a) a statement that all eligible persons have the choice to be treated as either public or private patients. A private patient is a person who elects to be treated as a private patient and elects to be responsible for paying fees of the type referred to in clause G3 of Schedule G – Business Rules for the NHRA. This clause states that “Private patients, compensable patients and ineligible persons may be charged an amount for public hospital services as determined by the State.”

b) a private patient may be treated by a doctor of his or her choice and may elect to occupy a bed in a single room. A person may make a valid private patient election in circumstances where only one doctor has private practice rights at the hospital. Further, single rooms are only available in some public hospitals, and cannot be made available if required by other patients for clinical reasons. Any patient who requests and receives single room accommodation must be admitted as a private patient (note: eligible veterans are subject to a separate agreement);

c) a statement that a patient with private health insurance can elect to be treated as a public patient;

d) a clear and unambiguous explanation of the consequences of public patient election. This explanation should include advice that admitted public patients (except for nursing home type patients):

i. will not be charged for hospital accommodation, medical and diagnostic services, prostheses and most other relevant services; and

ii. are treated by the doctor(s) nominated by the hospital;

e) a clear and unambiguous explanation of the consequences of private patient election. This explanation should include advice that private patients:

i. will be charged at the prevailing hospital rates for hospital accommodation (whether a shared ward or a single room), medical and diagnostic services, prostheses and any other relevant services;

ii. may not be fully covered by their private health insurance for the fees
charged for their treatment and that they should seek advice from their doctor(s), the hospital and their health fund regarding likely medical, accommodation and other costs and the extent to which these costs are covered; and

iii. are able to choose their doctor(s), providing the doctor(s) has private practice rights with the hospital;

f) evidence that the form was completed by the patient or legally authorised representative before, at the time of, or as soon as practicable after, admission. This could be achieved by the witnessing and dating of the properly completed election form by a health employee;

g) a statement that patient election status after admission can only be changed in the event of unforeseen circumstances. Examples of unforeseen circumstances include, but are not limited to, the following:

i. patients who are admitted for a particular procedure but are found to have complications requiring additional procedures;

ii. patients whose length of stay has been extended beyond those originally and reasonably planned by an appropriate health care professional; and

iii. patients whose social circumstances change while in hospital (for example, loss of job);

h) in situations where a valid election is made, then changed at some later point in time because of unforeseen circumstances, the change in patient status is effective from the date of the change onwards, and should not be retrospectively backdated to the date of admission;

i) it will not normally be sufficient for patients to change their status from private to public, merely because they have inadequate private health insurance cover, unless unforeseen circumstances such as those set out in this Schedule apply;

j) a statement signed by the admitted patient or their legally authorised representative acknowledging that they have been fully informed of the consequences of their election, understand those consequences and have not been directed by a hospital employee to a particular decision;

k) a statement signed by admitted patients or their legally authorised representatives who elect to be private, authorising the hospital to release a copy of their admitted patient election form to their private health insurance fund, if so requested by the fund. Patients should be advised that failure to sign such a statement may result in the refusal of their health fund to provide benefits; and

l) where admitted patients or their legally authorised representatives, for whatever reason, do not make a valid election, or actual election, these patients will be treated as public patients and the hospital will choose the doctor until such time as a valid election is made. When a valid election is made, that election can be considered to be for the whole episode of care, commencing from admission.
4.2 Multiple and Frequent Admissions Election Forms

G25. A State or hospital may develop a form suitable for individuals who require multiple or frequent admissions. The form should be for a specified period, not exceeding six months, and nominate the unit where the treatment will be provided. Further, the form should be consistent with the national standards and provide patients with the same information and choices as a single admission election form.

4.3 Other Written Material Provided to Patients

G26. Any other written material provided to patients that refers to the admitted patient election process must be consistent with the information included in the admitted patient election form. It may be useful to include a cross reference to the admitted patient election form in any such written material.

4.4 Verbal Advice Provided to Patients

G27. Any verbal advice provided to admitted patients or their legally authorised representatives that refers to the admitted patient election process must be consistent with the information provided in the admitted patient election form.

G28. Admitted patients or their legally authorised representatives should be referred to the admitted patient election form for a written explanation of the consequences of election.

G29. To the maximum extent practicable, appropriately trained staff should be on hand at the time of election, to answer any questions admitted patients or their legally authorised representatives may have.

G30. Through the provision of translation/interpreting services, hospitals should ensure, where appropriate, that admitted patients, or their legally authorised representatives, from non-English speaking backgrounds are not disadvantaged in the election process.