

South Australia

# Consent to Medical Treatment and Palliative Care Regulations 2014

under the *Consent to Medical Treatment and Palliative Care Act 1995*

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Schedule 1—Fees

Legislative history

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### 1—Short title

These regulations may be cited as the *Consent to Medical Treatment and Palliative Care Regulations 2014*.

### 3—Interpretation

In these regulations—

*Act* means the *Consent to Medical Treatment and Palliative Care Act 1995*.

### 4—Health practitioners

- (1) For the purposes of the definition of *health practitioner* in section 14(1) of the Act, the following professions and practices are declared to be included in the ambit of that definition:
  - (a) the provision of an ambulance service and medical treatment by a member of the staff of SAAS or other person or body authorised to provide ambulance services under the *Health Care Act 2008*;
  - (b) paramedic.
- (2) In this regulation—

*ambulance service, medical treatment* and *SAAS* have the same meanings as in the *Health Care Act 2008*.

## 5—Consent of person responsible

Pursuant to section 14B(2) of the Act, the following provisions apply in relation to the giving of consent by a person responsible for a patient for the purposes of the Act:

- (a) the person responsible must make and keep such records relating to the giving of consent as may be required under a scheme determined from time to time by the Minister and published in the Gazette;
- (b) a person responsible for a patient contemplated by paragraph (d) of the definition of *person responsible* in section 14(1) of the Act cannot consent to the administration of medical treatment consisting of the administration of drugs (whether of a sedating nature or otherwise) principally for the purpose of controlling the behaviour of the patient.

**Note—**

This practice is commonly referred to as the chemical restraint of a patient.

## 6—Resolution of disputes by Public Advocate

- (1) For the purposes of section 18C of the Act, and despite section 23 of the *Guardianship and Administration Act 1993*, the Public Advocate may only delegate a function or power under that section relating to mediation to a person if the Public Advocate is satisfied that the person has suitable qualifications and expertise in mediation.
- (2) A mediator to whom the Public Advocate has delegated a function or power under section 18C of the Act has, for the purposes of that section, the same privileges and immunities as a member of the Tribunal under the *South Australian Civil and Administrative Tribunal Act 2013*.

## 7—Referral of matters to Tribunal or Public Advocate

- (1) If the Public Advocate decides to refer a matter to the Tribunal under section 18D(1) of the Act, the following provisions apply:
  - (a) the referral must be made within 7 business days of the Public Advocate bringing a mediation to an end or refusing to determine an application, as the case may be;
  - (b) the Public Advocate must notify the Tribunal whether any or all parties have consented to the matter being referred to the Tribunal;
  - (c) the Public Advocate must provide the Tribunal with written reasons for its decision to refer the matter to the Tribunal;
  - (d) the Public Advocate must provide the Tribunal with a summary of the dispute between the parties, the contact details of the parties and all other information relevant to the matter that is in the possession of the Public Advocate when the referral is made;
  - (e) if the matter was the subject of mediation under section 18C of the Act and the mediator was a delegate of the Public Advocate—the Public Advocate must provide the Tribunal with the name of the mediator.

- (2) If the Tribunal decides to refer a matter to the Public Advocate under section 18F(1) of the Act, the following provisions apply:
- (a) the referral must be made within 7 business days of the Tribunal making the decision to refer;
  - (b) the Tribunal must notify the Public Advocate whether any or all parties have consented to the matter being referred to the Public Advocate;
  - (c) the Tribunal must provide the Public Advocate with written reasons for its decision to refer the matter to the Public Advocate;
  - (d) the Tribunal must provide the Public Advocate with a summary of the dispute between the parties, the contact details of the parties and all other information relevant to the matter that is in the possession of the Tribunal when the referral is made.
- (3) For the purposes of section 18F of the Act, the Tribunal may not refer a matter to the Public Advocate if the matter has already been the subject of mediation under section 18C of the Act.

## 8—Fees

The fees for the purposes of the Act are as set out in Schedule 1.

## Schedule 1—Fees

<u>Description of fee</u>	<u>Fee</u>
Application under section 18C of the Act	nil

## Legislative history

### Notes

- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of these regulations (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

### Legislation revoked by principal regulations

The *Consent to Medical Treatment and Palliative Care Regulations 2014* revoked the following:

*Consent to Medical Treatment and Palliative Care Regulations 2004*

### Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
2014	78	<i>Gazette 12.6.2014 p2498</i>	1.7.2014: r 2
2015	17	<i>Gazette 5.3.2015 p889</i>	29.3.2015: r 2
2015	47	<i>Gazette 14.5.2015 p1763</i>	14.5.2015: r 2
<b>2015</b>	<b>51</b>	<b><i>Gazette 28.5.2015 p2301</i></b>	<b>28.5.2015: r 2</b>

### Provisions varied

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
<i>r 2</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>29.3.2015</i>
<b>r 4</b>		
<b>r 4(1)</b>	<b>varied by 51/2015 r 4</b>	<b>28.5.2015</b>
r 6		
r 6(2)	varied by 17/2015 r 4	29.3.2015
r 7	substituted by 17/2015 r 5	29.3.2015
r 7(1)	varied by 47/2015 r 4	14.5.2015
Sch 1	substituted by 17/2015 r 6	29.3.2015
<i>Sch 2</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>29.3.2015</i>

## Historical versions

29.3.2015

14.5.2015