Mark Lee

Director

Mental Health, Disability & Older People Policy Directorate

To:

The Attorney General for Northern Ireland

Chief Executive of each HSC Trust; Castle Buildings

Chief Executive of the HSC Board Stormont

Chief Executive of the PHA Belfast BT4 3SQ

Chief Executive of the RQIA

Chief Executive of the Patient and Client Council

Royal College of Psychiatry (NI Division); Our Ref: HSC circular MHCU 1/20

British Association of Social Workers (NI);

Royal College of Nursing (NI).

British Medical Association

25 March 2020

Dear Colleague,

**EMERGENCY PROVISIONS IN RELATION TO MENTAL HEALTH SECOND OPINIONS**

1. The purpose of this guidance is to make you aware of temporary modifications in relation to second opinions as required under Article 64 of the Mental Health (Northern Ireland) Order 1986 (the 1986 Order).
2. The guidance provides emergency modifications in response to staffing pressures as a result of COVID-19. The modifications will come into force on 30 March 2020 and will remain in force until further notice. It is intended that the provisions will end when the pressures resulting from COVID-19 are reduced. **It is very important to note that these measures are only temporary and are not permanent.**
3. This guidance temporarily amends HSC MHU 1/14 guidance (attached at Annex A for ease) and advices of an Order made by the Department of Health amending the 1986 Order.
4. This guidance notes two areas of modifications;
   1. timelines relating to the requirement for second opinion for continued medication; and
   2. the requirement of second opinions to be provided by Part IV appointed doctors.

**Timelines for second opinions**

1. Article 64(1)(b) of the 1986 Order requires continued administration of medication to detained patients over three months to be approved by a Second Opinion Appointed Doctor (SOAD). The Department has amended this time limit to six months through the Mental Health (Northern Ireland) (Amendment) Order 2020. The Order will come into force on Monday 30 March 2020. See Annex B.
2. The changing of the time period when a second opinion is required is temporary. When Coronavirus pressures have reduced the Department is committed to making a new Order reverting the time period to 3 months.

**Requirement of a Part IV appointed doctor**

1. Article 64(3) of the 1986 Order requires the SOAD to be appointed by the RQIA for the purpose of Part IV of the Order. Article 64(4) also allows the SOAD to be a doctor appointed for the purpose of Part II of the Order.
2. In 2014 the Department issued guidance in relation to second opinions. Circular HSC MSU 1/14 refers (see Annex A). Paragraphs 8 to 15 of the circular noted that for the integrity of second opinions, the SOAD must be appointed for the purpose of Part IV and Part II appointed doctors should not be used for second opinions. An amended form 23 was also provided
3. During the period of extreme pressures as a result of COVID-19 paragraphs 8 to 15 of the 2014 circular should be set aside. Any second opinion in reliance of Article 64 should in the first instance be done by a doctor appointed by the RQIA for the purpose of Part IV. If a Part IV appointed doctor is not available, a doctor appointed by the RQIA for the purpose of Part II can provide a second opinion.
4. Please note, in any circumstances the SOAD cannot be the same person as the responsible medical officer. HSC Trusts should also seek to ensure as much independence as possible of the doctor carrying out the second opinion.
5. To give effect of the temporary modifications, the original form 23 has been reinstated and should from now on be used. Form 23, as should be used, is attached in Annex C.

**Required actions**

1. HSC Trusts are requested to bring these temporary modifications to the immediate attention of relevant staff.
2. Other organisations should ensure that all relevant staff are aware of the temporary modifications.

Yours sincerely

**Mark Lee**

**Mental Health, Disability and Older People Policy Directorate**

**ANNEX A – HSC MHU 1/14**

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**Annex B – Regulations**

Statutory Rules of Northern Ireland

2020 No. xxxx

Mental Health

The Mental Health (Northern Ireland) (Amendment) Order 2020

Made - - - - 25th March 2020

Coming into operation - 30th March 2020

The Department of Health([[1]](#footnote-1)), in exercise of the powers conferred by Article 64(2) of the Mental Health (Northern Ireland) Order 1986([[2]](#footnote-2)), makes the following Order:

Citation and commencement

1. This Order may be cited as the Mental Health (Northern Ireland) (Amendment) Order 2020 and shall come into operation on xx March 2020.

Amendment of Article 64(1)(b) of the Mental Health (Northern Ireland) Order 1986

1. In Article 64(1)(b), for “three months” substitute “six months”.

Sealed with the Official Seal of the Department of Health on 25th March 2020.

(L.S.)

Mark Lee

A senior officer of the Department of Health.

**Annex C – Form 23**

Form 23

Mental Health (Northern Ireland) Order 1986

Article 64(3)(b)

**Certificate of Second Opinion**

(Treatment Requiring Consent or Second Opinion)

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|  |  | am a medical practitioner appointed for the purposes of | | | | |
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| \*(Delete whichever does not apply) |  | \*Part II | | |  | |
|  | \*Part IV | | |  | |
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|  |  | of the Mental Health (Northern Ireland) Order 1986 by the RQIA. | | | | |
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| (Full name, address and status of person or persons consulted] |  | I have consulted | | | |  |
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| (Full name and address of the patient) |  |  |  | | | |
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| \*\*(Delete if not applicable) | (a) | \*\*is not capable of understanding the nature, purpose and likely effect of | | | | |
|  | OR |  |  | | | |
|  | (b) | \*\* has not consented to | | | | |
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|  |  | Dated: | |  | | |
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1. () 2016 c. 5 (NI), s1(5) [↑](#footnote-ref-1)
2. () S.I. 1986/595 (NI 4) [↑](#footnote-ref-2)