

Criteria for Approved Providers under the Substance Addiction (Compulsory Assessment and Treatment) Act 2017

Disclaimer

While every care has been taken in the preparation of the information in this document, users are reminded that the Ministry of Health cannot accept legal liability for any errors or omissions or damages resulting from reliance on the information contained in this document.

Please note that these guidelines are not intended as a substitute for informed legal opinion. Any concerns you may have should be discussed with your legal advisors.

Published with the permission of the Director-General of Health, pursuant to section 116 of the Substance Addiction (Compulsory Assessment and Treatment) Act 2017.

Citation: Ministry of Health. 2017. *Criteria for Approved Providers under the Substance Addiction (Compulsory Assessment and Treatment) Act 2017*. Wellington: Ministry of Health.

Published in November 2017
by the Ministry of Health
PO Box 5013, Wellington 6140, New Zealand

ISBN 978-1-98-853924-9 (online)
HP 6729

This document is available at health.govt.nz



MANATŪ HAUORA



This work is licensed under the Creative Commons Attribution 4.0 International licence. In essence, you are free to: share ie, copy and redistribute the material in any medium or format; adapt ie, remix, transform and build upon the material. You must give appropriate credit, provide a link to the licence and indicate if changes were made.

Contents

Introduction	1
Resources required under section 92 of the Act	2
Model of care	3
Relationships with other providers	4
Workforce	4
Resources	4
Processes	5
Application to be an approved provider	5
Other resources	6

Use of the word ‘patient’

The preferred language for referring to someone receiving addiction treatment is ‘person’. The Substance Addiction (Compulsory Assessment and Treatment) Act uses the word ‘person’ to refer to an individual prior to a compulsory treatment certificate being issued.

Once a compulsory treatment certificate is issued, the Act uses the word ‘patient’.

This guideline uses the language of the Act, while acknowledging that people who use or provide addiction treatment services rarely use the term ‘patient’.

Introduction

The Substance Addiction (Compulsory Assessment and Treatment) Act 2017 (the Act) enables persons that meet certain criteria, to be designated as ‘approved providers’ for the purposes of operating a treatment centre for patients under the Act.

The Act defines an approved provider as:

- a person certified under the Health and Disability Services (Safety) Act 2001 to provide mental health services; or
- a person designated under section 92 of the Act.

Section 92(2) of the Act states that the Director of Addiction Services (the Director) can designate a person as an approved provider if satisfied that the person:

- (a) is certified, under the Health and Disability Services (Safety) Act 2001, to provide residential disability care; and
- (b) has the capacity and resources to detain and treat patients in accordance with the Act in places that are suitable for that detention and treatment; and
- (c) has systems in place for ensuring compliance with the requirements of the Act.

Note: the use of the word ‘person’ in section 92 refers to a legal person, which can be an individual, organisation or legal entity, as long as they meet the criteria in section 92(2)(a) to (c).

A designation under section 92 may be subject to any conditions that the Director considers necessary or desirable for the purposes of the Act (sections 92(2) and (3)).

To be an approved provider under section 92, providers must be approved by HealthCERT¹ to deliver residential disability services www.health.govt.nz/our-work/regulation-health-and-disability-system/certification-health-care-services

Individuals wishing to be appointed as approved providers under section 92 of the Act will need to demonstrate that they can provide services to people with severe substance addiction and severely impaired capacity (as defined in sections 8 and 9 of the Act), They will also need to demonstrate that they can manage the complex physical, psychological, emotional, cultural and spiritual needs that most people under the Act will experience. This includes the provision of hospital medical care (to ensure 24 hour/7 day per week nursing).

¹ HealthCERT is responsible for ensuring hospitals, residential disability care facilities and fertility providers provide safe and reasonable levels of service for consumers, as required under the Health and Disability Services (Safety) Act 2001.

Resources required under section 92 of the Act

Section 92(2)(b) of the Act requires that, before the Director can designate an approved provider, the Director must be satisfied that the person has:

- (1) the capacity² and resources to detain and treat patients under the Act, in places that are suitable for that detention and treatment. This includes consideration of:
 - the facility in which people will be treated
 - the skills, knowledge and qualifications mix of the workforce employed by the facility (treatment centre) or across a service provider
 - access to, and relationships with other services
 - the model of care adopted by the provider
- (2) the ability to provide a safe environment for patients, and ability to detain this client group in the least restrictive environment. In practice, this should mean that patients are detained by intensive engagement in recovery programmes, rather than by being in a locked environment. It also means the use of effective communication principles and safe practice. Doors can be locked at night (as they are in most domestic environments).

Note: *People subject to the Act cannot be placed in seclusion.*

The Act does not address how approved providers can demonstrate the ways in which they meet the requirements of section 92. However, potential approved providers must meet the Health and Disability Services Standards (HDSS) <http://www.health.govt.nz/our-work/regulation-health-and-disability-system/certification-health-care-services/services-standards>, which cover a range of aspects of service delivery, including environment, resources, staffing, consumer rights, cultural, workforce training and experience, and so forth.

The staff employed by an approved provider must be able to work with a client group that has multiple and complex needs, including medical needs. Some people will require regular medication, not only as part of their treatment for addiction but also as part of their general healthcare (eg, insulin-dependent diabetes, hepatitis, mental health problems requiring psychotropic medication).

The Act requires that treatment received enhances and supports the mana and dignity of the person receiving care. This means that all processes (including treatment) under the Act must be delivered in a manner that upholds the inherent mana and dignity of the person and enhances their wellbeing within the context of their condition and suitable to their assessed level of cognitive functioning.

Section 12 of the Act emphasises the need to respect the culture of the person. This is reinforced in section 52. In practice, this will need more than occasional access to a cultural advisor; rather it should be a key feature of the service that is provided.

² Note that 'capacity', as used in section 92 of the Act, refers to resources.

The model of care for the service must set out the ways in which the service will enhance the mana and dignity of patients as well as provide for their specific cultural needs.

Approved providers should incorporate into their treatment centre practice the guidance on mana enhancing and mana protecting practice under the Act, developed by Te Rau Matatini, the National Centre for Māori Health, Māori Workforce Development and Excellence:

- *Manaaki Mana Enhancing and Mana Protecting, a practitioner resource.*³

Model of care

This section is extracted from *Commissioning Framework for Mental Health and Addiction: A New Zealand guide* (Ministry of Health, 2016). The Ministry of Health expects mental health and addiction services to develop models of care that:

- clearly state the nature of their services
- provide a basis for funding against which the effectiveness of those services can be measured.

The aim of a model of care is to describe best practice care and services within a system (or a part of that system) for a person or population group as they progress through the stages of a condition, injury or episode of care. Models of care should span a range of services, including primary and secondary services and those provided by non-governmental organisations (NGOs) and in the community.

The following principles need to underpin any model of care for mental health and addiction to ensure the success of services.

- Consumers and their family and whānau (including children) are at the centre of the model. The Act is explicit about inclusion of support people and family and whānau involvement throughout the process, including in treatment planning, transfer decisions, discharge and care plans.
- A robust framework underpins service delivery, reflecting clinical and non-clinical aspects of care.
- The model focuses on resilience and recovery.
- The model reflects holistic practice that is focused on wellbeing and includes responses from outside the health sector.
- The model has a systemic focus.
- Responses reflect evidence of best practice (defined as dynamic, evidence-informed, innovative and open to change).
- Data is used to inform practice.
- The model is responsive to co-existing problems.
- Responses are culturally competent as well as clinically competent and reflect whānau ora.
- The model is part of a range of information used to develop funding models.
- The model can relate to other models of care within the district health board (DHB) and to models of care for regional services (eg, adult forensic mental health services).

³ <http://teraumatatini.com/manaaki-mana-enhancing-and-mana-protecting>

Relationships with other providers

The manager of the treatment centre must have effective relationships with:

- a range of community providers and specialist services to enable smooth transition of individuals between services, particularly in relation to ongoing care; and these relationships should be reflected in memoranda of understanding or other instruments
- primary and specialist addiction, mental health and disability (long-term care) services, including both DHB and NGO services, Needs Assessment and Service Coordination (NASC) services and with palliative care services
- health services (primary and specialist) to ensure the physical health needs of people with severe substance addiction are met.

Workforce

The approved provider and/or the manager of a treatment centre must understand the roles of officials appointed under the Act and be able to facilitate their engagement with patients. The Director of Area Addiction Services (Area Director), authorised officers and responsible clinicians may not be employed by the treatment provider, but will be engaged in ensuring proper administration of the Act, and in maintaining oversight of, and making decisions about, treatment. Staff who deliver treatment to patients under the Act need to be part of a multidisciplinary team that includes health professionals with expertise in the treatment of people with severe substance addiction. This may include, but is not limited to, practitioners with expertise in nutrition, physical therapy, activities of daily living and self-cares, cognitive remediation, social work and whānau ora. Care and treatment must be delivered by a multidisciplinary team, operating within a model of care that is recovery-based and trauma-informed.

The approved provider and all staff engaged with patients under the Act, must understand the purpose, scope and impact of the Act, including powers and responsibilities in relation to patients detained under the Act. This includes the roles and powers of the Director of Addiction Services, the Area Director, approved specialists, responsible clinicians and district inspectors. The provider should either provide, or support the participation of staff in relevant training and education about the use and interpretation of the Act.

The approved provider must be able to demonstrate an understanding of a range of legislation relevant to patients under the Act and voluntary clients, including:

- the Mental Health (Compulsory Assessment and Treatment) Act 1992
- the Protection of Personal and Property Rights Act 1988
- the Privacy Act 1993 and the Health Information Privacy Code 1994
- the Health and Safety at Work Act 2015.

Resources

An approved provider must demonstrate that they have access to the necessary resources to deliver intensive rehabilitation to patients under the Act. This does not necessarily mean that the approved provider needs to employ staff in these roles but that the service may need:

- access to interpreter services
- relationships with peer support services, advocacy and whānau support
- access to specialist neuro-psychological support

- access to information about services available to support people with severe substance addiction and their families and whānau, once no longer subject to compulsory status.

These relationships should foster ongoing support of people with severe substance addiction. No person should leave a treatment centre without an active treatment plan and engagement with follow-up services.

Processes

The Act requires a number of activities relevant to the operation of a treatment centre. Section 93 of the Act enables the Director to require by written notice an approved provider to report on any matter relating to functions under the Act that have been or are required to be performed in a treatment centre operated by an approved provider.

District inspectors are appointed under section 90 of the Act, to ensure the rights of patients are protected and to investigate any alleged breaches of those rights. District inspectors will visit patients at least monthly and may visit more frequently. District inspectors have the right to access patients on request and can also look at registers and records held by the approved provider. A district inspector will report to the Area Director and the Director.

From time to time, the Director will arrange to visit a treatment centre. The Area Director may also visit a treatment centre. It is an offence to obstruct a visit from the Director, an Area Director or a district inspector (section 112 of the Act).

Although not referred to in the Act, there is a process in place that enables ‘National Preventive Mechanisms’ (for example an Ombudsman) to make unannounced visits to any place in which a person is detained. This function is carried out in respect of the Crimes of Torture Act 1989, which gives effect to New Zealand’s international obligations under the United Nations Optional Protocol to the Convention against Torture (OPCAT). An approved provider operating a treatment centre should ensure that such visits are not impeded in any way.

<http://www.ombudsman.parliament.nz/what-we-do/protecting-your-rights/monitoring-places-of-detention>

It is likely that the Ombudsman will take a keen interest in monitoring approved providers, particularly as the Act is new legislation and there has been concern from the Office of the Ombudsman about its impact on people with disabilities (including addiction).

Application to be an approved provider

The application to be an approved provider must be in writing ([insert hyperlink](#)). In summary, the application needs to include the following information:

- name of provider and treatment centre(s) operated by the provider
- confirmation that the provider is certified under the Health and Disability Services (Safety) Act 2001 to provide residential disability care
- a copy of the model of care within which treatment is provided
- staffing diagram and information about the experience of staff in providing appropriate care for people with severe substance addiction (as defined in the Act)
- information about relationships with a range of care providers in the community
- workforce development plan
- contact details for the applicant

- statutory declaration and signature.

Other resources

Ministry of Health

Transition Planning Guidelines for Infant, Child and Adolescent Mental Health/Alcohol and Other Drugs Services 2014.

<http://www.health.govt.nz/publication/transition-planning-guidelines-infant-child-and-adolescent-mental-health-alcohol-and-other-drugs>

Commissioning Framework for Mental Health and Addiction: A New Zealand guide.

<http://www.health.govt.nz/publication/commissioning-framework-mental-health-and-addiction-new-zealand-guide>

Medicines Management Guide for Community Residential and Facility-based Services – Disability, Mental Health and Addiction.

<http://www.health.govt.nz/publication/medicines-management-guide-community-residential-and-facility-based-services-disability-mental>

Prescribing Controlled Drugs in Addiction Treatment.

<http://www.health.govt.nz/publication/prescribing-controlled-drugs-addiction-treatment>

Supporting Parents, Healthy Children.

<http://www.health.govt.nz/publication/supporting-parents-healthy-children>

Mental Health and Addiction Services for Older People and Dementia Services.

<http://www.health.govt.nz/publication/mental-health-and-addiction-services-older-people-and-dementia-services>