Telecommunication Rights in Mental Health

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Points of Contact for Feedback

Justice Action
Unit 10/2 Catherine St,
Glebe NSW 2037
Tel: 612 9283 0123
Fax: 612 9283 0112
Email: ja@justiceaction.org.au

Executive Summary

The push for telecommunication rights in mental health is a push for a more humane, effective, and supportive care system. A person taken from their home and assigned to a hospital should be able to keep their phone to communicate with their family and personal doctor. The process of being removed from a comfortable setting to an unfamiliar environment can be isolating. Therefore, telecommunication rights in mental health facilities are vital for empowering bodily decisions for one's self.

Within care facilities, personal phone use improves mental health as it allows access to online support services and social connection. Telehealth services could assist medical staff by providing a method to monitor individual's online activity, giving insight into their wellbeing. It also supports educational opportunities and aids individuals with reintegration into society by maintaining connections to the outside world.

The World Health Organisation highlights the right to communication for improving mental health by supporting freedom of expression and access to information. They recognise that conversations could be monitored or restricted out of the *'best interest'* for individuals, which invades their privacy. The Mental Health, Human Rights and Legislation document emphasises peoples right to freely communicate with anyone they choose to prevent violence and abuse within mental health facilities.

International countries emphasise the importance of bringing personal devices to hospitalised settings as it is an important human right. These rights include the ability to converse with others privately, have access to phones and emails, and the right to receive visitors. These rights can only be denied by a mental health professional for treatment, and any order denying access must include the reason for the denial.

The United Kingdom gives patients the right to a private family life under the European Convention on Human Rights. The infamous *Manchester City Council v CP & Ors* (2023) case considered restrictions that were placed on a young person's use of their mobile phone, tablet and laptop. The judge referred to the Children's Act 1989 to assert that restriction on the use of devices to protect the plaintiff from risk of serious harm ultimately required the sanction of the court. Furthermore, their implementation of the Devon Partnership NHS Trust (DPT) policy also outlines the use of mobile devices and access to NHS Wi-Fi within the care environment provided by DPT.

The international community has made strong developments in upholding telecommunication rights when being removed from home. However, many Australian states have not made the same amount of progress. People are often involuntarily hospitalised without their phones or other devices and as a result, experience physical and social isolation.

Australian states have different legislations regarding individual rights in owning mobile phones within mental health services. Legal protections such as the *Charter of Human Rights and Responsibilities Act 2006* (Vic), the *Mental Health Act 2007* (NSW), and the *Mental Health Act 2014* (WA) ensures patients can use personal devices and communicate privately, with any restrictions being minimal and regularly reviewed. Initiatives like these in Southern NSW promote patient connection and autonomy through controlled mobile phone access.

Literature Review

The benefits of telecommunication for inpatients and the consequences of its absence has been the subject of academic discussion. From analysing academic discourse, it is clear that having access to personal devices such as mobile phones for patients encourages positive behaviours such as social connection and creativity and can mitigate severe mental illness symptoms. It is also clear that depriving and restricting a patient's access to their mobile phone can directly impact their readiness and engagement with therapy. From a professional perspective, giving patients in care access to their phones allows mental health practitioners to analyse a patient's digital footprint and better understand a patient's mental state and rehabilitative progress.

Benefits of Telecommunication

The social nature of telecommunication is inherently beneficial in helping patients cope with their emotions. Through its enabling of rehabilitative services and resources such as online-based support groups, access to devices is highly effective in accommodating a patients' desire for social networking and peer support as a part of intervention. Colder Carres et al. (2018) examines the use of technology and demographic information of patients during a 4 week outpatient program in 2011 in determining how patients with severe mental illnesses interact with social media as well as other forms of online telecommunications.

Ultimately, it was found that the use of apps on the internet, such as message boards, wikis, Skype, role-playing games and blogs, ranged between 26.8% and 34.8% between patients. This range was contingent on the age and education range of participants, as those who had attended and completed college were more likely to access the internet via their mobile phone. It was also found that younger patients would use their mobile phones for internet access, whilst patients over the age of 40 were 79% to 86% less likely to access the internet through their mobile phone.

Colder Carres et al. (2018) concluded that monitoring patients' digital footprints may be a valuable source of information regarding the individual's illness status. Patients in clinics, when given access to the internet and mobile phones, do take advantage of applications that evidently promote social and mental health advantages. These applications include message boards, Skype and role-playing games, and are considered acceptable and valuable online social interactions by the study. However, their overall use is dependent on the age and education of a patient, and digitally illiterate and excluded patients are less likely to utilise the internet effectively. The study cites older patients and patients with less education as demographics that *'...may be less likely to benefit from Internet-based interventions delivered on mobile phones without additional support or training.'*

The study also addressed the detrimental effects that arise from excessive media use for patients with severe mental illnesses. This is evident in the higher probability of patients with existing severe mental illnesses possessing behavioural risk factors for addiction, loneliness, depressive symptoms and lower life satisfaction. However, Colder Carres et al. (2018) argue that the benefits of media access and use, *'...such as continued cognitive stimulation, meaningful "work," and participation in a community during times of greater impairment…,'* can offset these risks. Online communication has been found to decrease anxiety associated

with social interactions. Therefore, there are ongoing efforts to create social media-based support for people with schizophrenia and online video game communities to support those with mental health problems. The study ultimately recommends that potential consequences of embedded social media and internet access into therapeutic intervention for patients must be carefully monitored to ensure its effectiveness.

Historical advancements in technology have influenced the incorporation of telecommunication devices in the mental health sector. They have been introduced for research purposes to record the functionality of patients within the community or in outpatient care, in relation to their environment and mental health severity. This has established what factors contribute to depressed moods and heightened mental states in patients with severe mental illness. Technologies previously adopted for research have been reintroduced for treatment purposes by consistently retrieving clinical information, yet to be adopted by inpatient psychiatric facilities despite reported benefits. An evaluation of telecommunications' potential was assessed by psychiatrists regarding a group of schizophrenic inpatients in the New York State Psychiatric Institute. Kinmhy et al. (2014), analysed the effectiveness of incorporating mobile devices into psychiatric treatment in their study.

The study found associations between mood and social context, severity of symptoms, unit location and time of day. These associations provide a way to consistently monitor symptoms to gain insight to adopt preventative treatment methods. Consisting of, a redesign of activities and physical environments in regards to the data that correlates with less severe symptoms and providing social contexts best suited to individual patients. A relatively low rate of refusal to participate supports an achievable implementation of telecommunication devices to the vast majority of inpatients.

Vital to this study is the participants' relationship to the technology itself and the benefits it provides them. It found that the majority of participants routinely used non-mental health features/apps, specifically those built automatically into electronic devices (such as internet browser, texting apps, etc.) to support their recovery. Between 40% and 60% of identified features/apps that were available to the patients were used to support their recovery, namely music apps, access to the internet, calling, texting and tracking time. Two-thirds of the participants also indicated that they were enthusiastic in trying new technologies to support their recovery. Addressing concerns that mobile phone usage may promote deluded thoughts for patients, the study reported risks to be low, minimised substantially by providing patients with a clear usage purpose and emphasising its voluntary nature.

The outcomes of this study preliminarily support the integration of telecommunications devices for inpatients, with severe mental illness, treatment. Implementing this technology with safe access to specific features that promote treatment and recovery would have a lasting positive impact on how individuals receive help from psychiatric services.

How patients react to media deprivation

In conjunction with the benefits of media access for patients in psychiatric clinics, arising studies suggest that there is a correlation between social connection and rehabilitative engagement. Burke et al. (2022) examines in their study the responses of psychiatrically hospitalised adolescents after being deprived from their smartphones, and evaluated the

impact of this widespread treatment approach. While this study acknowledges both positive and negative effects of the pervasive use of mobile smart phones by adolescents, it is undeniable that smartphones and the access of social media provides extensive social connection, education and entertainment benefits. Participating patients were tasked to complete qualitative and quantitative measures assessing the experience of smartphone deprivation during hospitalisation.

Burke et al. (2022) concluded from their data that smartphone deprivation was not associated with clinical symptom severity. Rather, patients with more addictive or emotionally invested relationships with their smartphone and social media were more likely to report negative reactions to smartphone deprivation. However, patients overall experienced both positive and negative reactions to smartphone deprivation during treatment.

While positive reactions arise from lacking access to smartphones, such as reduced stress, engagement in other activities and a shift in focus back onto the patient and their treatment, patients reported an array of negative reactions from smartphone deprivation. 53% of patients noted that deprivation from their phones made them feel excluded and isolated from social connection, with the suggestion that a lack of social connection exacerbated patient symptoms and made it difficult for patients to reconnect socially after hospitalisation. Overall, the reaction of patients towards smartphone deprivation often correlated with a patient's psychological readiness to engage in therapy and rehabilitation. Patients that experienced predominately negative reactions to smartphone deprivation were less likely to be psychologically ready for therapeutic intervention. This can arise when patients rely on their smartphones as a primary means of emotion regulation and social connection, in which the abrupt removal of their smartphones may invoke stress. Ultimately, Burke et al. (2022) recommend that clinically appropriate, resiliency-focused approaches to smartphone use for patients must be identified to best ensure patient care and treatment success.

This study is notable in arguing the importance of patient autonomy and choice in choosing to remain in possession of their smartphone. Close to 1 in 4 patients reported that not having access to their phones helped them focus on themselves and their treatment, and patients frequently expressed feeling relieved when being deprived from their phones. However, for patients who rely on their smartphones, forced deprivation can directly impede their therapy engagement and exacerbate their symptoms. While the blanket deprivation of smartphones may benefit a certain patient demographic, allowing access to personal devices in accordance to a patient’s wishes will better accommodate all patients during hospitalisation on a case by case basis.

International Telecommunication Rights

World Health Organisation (WHO)

General statements on Human Rights

- The right to health and other health-related human rights are legally binding commitments enshrined in international human rights instruments.
- The right to health is indivisible from other human rights, including the rights to education, participation, food, housing, work and communications.

Mental Health, Human Rights and Legislation: Guidance and Practice

- Mental health is intrinsic to the right to health.
- Unfulfilled needs and human rights violations in relation to mental health have been largely caused by an arbitrary division between physical and mental health.
- A vital human rights concern is the promotion, protection and realisation of mental health.
- Mental health care should respond to issues with the right of mental health, which includes the availability, accessibility, acceptability and quality of the care.

Under the MHHRLG document, the WHO highlights that people using a mental health service 'have the right to freely communicate with anyone they choose… ensuring accountability… preventing violence and abuse' (p. 43). However, it unfortunately recognises that most inpatients in hospitalised settings have 'curtailed and monitored' communication, with open correspondence that is usually censored 'on the basis of "best interests" standard'. In addition, intimate telecommunication between inpatients and family members is usually restricted and is limited for outpatients, juxtaposing the WHO statements on accesses to communications as outlined below:

> *"A person using mental health services has the right to communicate with anyone they choose on an equal basis with others. A person who receives inpatient mental health care has the right to freedom of communication, which includes the freedom to communicate with other people within and outside the service; to send and receive private communications without censorship; to receive, privately, visits from a personal advocate or representative and, at any appropriate time, from other visitors; and have access to postal and telephone services, newspapers, radio, television and the Internet."*
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> Mental Health, Human Rights and Legislation: Guidance and Practice, p. 43

International Covenant of Civil and Political Rights (ICCPR)

Article 19.2 in the ICCPR states that "everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice." Telecommunication is one way in which individuals can seek, receive and impart information. With the increasing use of technology, there has been a shift towards telehealth services. Such services are beneficial to patients as it increases one's access to healthcare, improves continuity and quality of care, and increases opportunities for patients to contact health care providers between face-to-face consultations.

Telecommunication Rights: A Global Perspective

Globally, there exists a diverse research on mobile phone usage for inpatients administered to psychiatric hospitals. Following are some of the cases we have identified that indicated a positive outcome for the patient's recovery and general wellbeing.

United Kingdom

The United Kingdom's national policy encourages all non-forensic psychiatric units to allow patient access to personal electronic devices.

The Devon Partnership NHS Trust (DPT)

The DPT provides mental health, learning disability, and neurodiversity services in Devon, the wider South West region. The Trust makes every effort to support people in making and maintaining contact with family and friends through mobile devices and access to NHS Wi-Fi, and to ensure this communication is to be made with appropriate privacy. The policies within DPT were developed in accordance with the following documents; Using Mobile Phones in NHS Hospitals, Department of Health 2009, and Mental Health Act Code of Practice 2015. As the Trust's carefully drafted policy prevents blanket restrictions to electronics, the DPT avoids breaching article 8, the right to a private family life and one's correspondence, within the European Convention on Human Rights.

Nationally, people who use DPT services, staff members, and visitors all have access to mobile devices such as smartphones, tablets, and laptop computers. These devices allow a range of media to be generated and transmitted to the world wide web. This policy sets out the permissible use of mobile devices and access to NHS Wi-Fi in the care environment provided by DPT.

Implementations of the DPT

Communication with family and friends is recognised as an important part of a person's recovery. With this in mind, mobile devices and access to NHS Wi-Fi is assessed on an individual basis and managed locally by inpatient units. It is made clear that mobile devices and access to NHS Wi-Fi must be used in a way which respects other people's privacy, dignity, and confidentiality.

When people are admitted to acute inpatient services, staff will first run a risk assessment to determine the appropriateness of the person having access to mobile devices and NHS Wi-Fi, with this being detailed in the person's care plan. If deemed appropriate and safe for electronic use, people will be able to use mobile devices and access NHS Wi-Fi.

The strict guidelines surrounding the use of telecommunication devices exist to ensure that patients, visitors and staff can access NHS Wi-Fi but are prohibited from accessing or downloading illegal, or what would otherwise be considered inappropriate material (CoP 8.21) and that visitors and other people who use the services follow the requirements involved in using mobile devices and accessing NHS Wi-Fi.

Significant UK Case Law: *Manchester City Council v CP & Ors* [2023] EWHC 133 (Fam)

The case of *Manchester City Council v CP & Ors* [2023] EWHC 133 (Fam) outlined the UK's stance towards smartphone deprivation or hospitalised patients. In this case, MacDonald J considered restrictions that were placed upon a young person's use of their mobile phone, tablet and laptop. P, a 16 year old child suffering from attention-deficit/hyperactivity disorder (ADHD), was the subject of a full care order, which meant that Manchester City Council had parental responsibility over her.

It was concluded that removing or restricting an individual's use of their mobile phone is an infringement on Article 8 of the *European Convention of Human Rights* (ECHR), their right to respect for privacy and family life. Any interference with this right would need to be necessary and proportionate under Article 8(2), either to safeguard and promote the person's welfare or to protect the health and safety of others. MacDonald J refers to s 33(3)(b) of the *Children's Act 1989* to conclude the restriction on the use of devices to protect the plaintiff from a risk of serious harm ultimately required the sanction of the court, as '*such actions would likely constitute an assault.*' MacDonald J ultimately found that

> *"In the circumstances, and for the reasons I have given, I refuse to sanction the removal of, or the restriction of the use of P's mobile phone, tablet and laptop and her access to social media by way of an order authorising the deprivation of her liberty for the purposes of Art 5(1) of the ECHR. I shall instead, make a declaration that it is lawful for the local authority to impose such restrictions in this regard as are recorded in the order in the exercise of the power conferred on it by s 33(3)(b) of the Children Act 1989. Whilst I am satisfied that, were the evidence to justify it, it would be open to the court to grant an order under its inherent jurisdiction authorising the use of restraint or other force in order remove P's mobile phone, tablet and laptop from her if she refused to surrender them to confiscation, the evidence currently before the court does not justify such an order being made. Finally, I am satisfied that the other restrictions sought by the local authority do constitute a deprivation of liberty for the purposes of Art 5(1) and that it is in P's best interests to authorise that deprivation of liberty."*
>
> MacDonald J, Para 69

Importantly, MacDonald J emphasises that future application of the legislation should be determined on their own facts.

> *"...it will not ordinarily be appropriate to authorise restrictions on phones and other electronic devices within a DOLS order authorising the deprivation of the child's liberty. Further, it is to be anticipated that, in very many cases, any restrictions on the use of phones and other devices that are required to safeguard and promote the child's welfare will fall properly to be dealt with by the local authority under the power conferred on it by s 33(3)(b) of the Children Act 1989. Only in a small number of cases should it be necessary to have recourse to an order under the inherent jurisdiction, separate from the order authorising the deprivation of liberty, authorising more draconian steps to restrict the child's use of a mobile phone or other device and only then where there is cogent evidence that the child is likely to suffer significant harm if an order under the inherent jurisdiction in that regard were not to be made."*
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> MacDonald J, Para 71

The Mental Health Act (MHA) Code of Practice was also raised, where Chapter 8 highlights the fact that patients should have every opportunity to maintain contact with family and friends by telephone, mobile, email or social media. Conscious efforts should also be made by hospital staff to respect the privacy and dignity of patients, including communicating with others in private. Staff should also begin patient admittance by assessing risk and appropriateness of access to mobile phones and other electronic devices instead of using blanket restrictions.

Finland

Section 22 j(1) of Finland's *No. 1116 Mental Health Act 1990* states that 'patients are entitled to be in contact with persons outside the hospital by using a telephone, by sending and receiving letters or other confidential messages and other consignments, and by receiving guests. Additionally, Section 22 j(2) states that 'a patient's contacts with persons outside the hospital may be limited if they seriously hamper the treatment, rehabilitation or safety of the patient or if the limitation is necessary to protect the privacy of some other person.'

In 2021, a review was conducted investigating the quality of mental health services and rights of people receiving treatment in inpatient services in Finland. 13 psychiatric wards were evaluated through surveys, observations, group interviews, patients, and family members. The evaluation gave the hospitals an average of 2.6 out of 3 points for the theme 'the right to an adequate standard of living', which included criteria 1.5.1 which states that telephones, letters, e-mails and the Internet are freely available to users without censorship and criteria 1.5.2 which states that user's privacy in communications is respected. Overall, the study praised the high quality of Finnish mental health services.

New Zealand

New Zealand possesses numerous rights under Part 6 of the *Mental Health (Compulsory Assessment and Treatment) Act 1992* which supports the use of telecommunication devices for patients undergoing treatment. These rights apply as soon as you become a patient or proposed patient. Section 72 states that the right to have visitors and make telephone calls and sections 73 and 74 state that the right to send and receive emails without hospital staff opening their mail. These rights may only be revoked if the responsible clinician believes that making calls or emails would not be in the patient's best interest or would harm their treatment.

However, according to section 123, postages are never permitted to be opened or withheld from a patient as long as they are sent from an MP, a judge or officer of any court or other judicial body, an ombudsman, the Director-General of Health or Director of Mental Health, a district inspector or official visitor, the person in charge of the hospital, the patient's lawyer or a psychiatrist from whom the patient has sought a second opinion.

Japan

Japan has a history of neglecting mental health among citizens, but has had recent developments regarding legislation and administration that aim to improve experience.

Article 36.2 of the *Act on Mental Health and Welfare for Persons with Mental Disorders of Disabilities* states that administrators of psychiatric hospitals may not impose a restriction on sending or receiving of correspondence, visits from personnel of the prefectural government or other administrative organs or other activities specified by the Minister of Health, Labour and Welfare after hearing the opinions of the Social Security Council in advance. However, Article 36.1 states that administrators may restrict activities of a hospitalised person to the extent essential for the medical care and protection of that person.

Minagawa and Saito's (2014) study, an analysis of the impact of cell phone use on depressive symptoms among Japanese elders", aimed to investigate the effects of cellphone use on Japanese men and women aged 65 and older. Collecting data of cellphone use and depressive symptoms in 4 waves over 9 years (2001-2009). They concluded that cellphones appear to be an important contributor to the psychological well-being of Japanese elders and urged researchers and policy makers to prioritise access to new technologies for older adults.

Scotland

Section 19 of *The Mental Health (care and treatment) (Scotland) Act 2003: Code of Practice Volume 1* states that calls of detained patients should not be prohibited or restricted and they should be able to contact or be contacted by whoever they wish. Reasonable access to a telephone should be provided to patients. Section 20 also states that their regulations do not cover the use of mobile telephone. A patient's access to mobile phones may be prohibited or restricted for reasons of safety and security.

In 2021, the School of Forensic Mental Health and the Scotland Forensic Network released a document titled "supporting communication and technology use in mental health settings". In section 3.2 which touched on digital exclusion and access, they acknowledged that overcoming barriers to access is essential to ensure that everyone receives the opportunities needed to succeed in the modern world, regardless of whether they are accessing care in an inpatient setting. As such funding programs have since been established to support and meet the needs of those excluded through a lack of access to technology. One such program is the Connecting Scotland Programme.

Germany

Statistical analysis conducted by Marbin and colleagues found that in 2016, 84.9% of psychiatric inpatients in Germany own a mobile phone and 59.3% own a smartphone. This statistic was lower than that of the general populations of which 95.1% owned a mobile phone and 74% used a smartphone.

However, the high prevalence of telecommunication devices indicates that Germany acknowledges the benefits of digital health interventions and is continuing its ongoing process of digitalisation in healthcare.

Taiwan

Under the Mental Health Act, Article 25: Hospitalised patients shall enjoy the rights of personal privacy, communication freedom, and receiving visitors; no restriction thereof may be implemented unless for the patient's disease conditions or medical care needs.

A report made by the United States Department of State examined and assessed if these legislations were upheld in practice in the psychiatric hospitals, which found "no violation of human rights".

Czech Republic

A study conducted in Czech Republic looked into the quality of care in public psychiatric hospitals around the country between 2017 and 2019, and evaluated its adherence to the Convention on the Rights of Persons with Disabilities (CRPD).

The researchers observed everyday practices and conducted 579 interviews across public psychiatric hospitals.

Results found that Czech psychiatric hospitals had significant shortcomings in terms of the communication technologies available to patients. Time restrictions were applied to private mobile phone use, Wi-Fi connections were rarely available, and several wards employed a point reward system for access to the hospital facility phone. There was also a lack of privacy for personal communication, insufficient or no rooms for personal visits, and no sound barriers for facility phones.

According to Article 22(1) of the CRPD, no person with disabilities, regardless of living arrangements, shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence or other types of communication. This indicates that patients deemed appropriate after a risk assessment should have the right to access devices to communicate with their families within psychiatric facilities.

United States

42 U.S. Code 95011 Bill of Rights addresses the right in the case of a person admitted on a residential or inpatient care basis, to converse with others privately, to have convenient and reasonable access to the telephone and mails, and to see visitors during regularly scheduled hours. However, if a mental health professional determines that the individual requires a reasonable and limited time restriction to cellphones due to treatment processes, they are to do so in writing. The order must include the reasons for denying access to telecommunications.

Morris (2018) analysed multiple studies in their paper, Internet Access for Patients on Psychiatric Units, to investigate the effects of internet access for psychiatric inpatients. They found that the legal oversight of psychiatric hospitalisation has not kept pace with the rise of digital technology. In a survey conducted in 2014, 89% of individuals with schizophrenia reported using their personal computer for one or more hours per day, and 85 percent reported using mobile phones for one or more hours per day. Additionally, a 2016 meta-analysis found that half of patients with psychotic disorders in studies from the United

States, United Kingdom, and Canada owned a smartphone, with ownership rates predicted to continue increasing.

The study also highlights clinical benefits of telecommunication stating that it serves as a method in which patients can maintain their lives outside the ward, from communicating with loved ones to addressing professional commitments. Furthermore, there are patients who may learn new information online about their mental health conditions, helping them make informed decisions about treatments or providing them with support networks. Lastly, patients can work with staff to coordinate discharge planning and follow-up care through online resources.

Lastly, the study also addresses the effect of telecommunication in an educational context. They suggest that online educational tools may improve quality of life, decrease functional disability, or provide alternatives to nursing. Studies suggest that mobile devices can be useful for inpatient psychiatric care, such as tracking patients' moods over time. Psychiatric providers are also using advances in telepsychiatry to provide additional support to inpatients and help facilitate discharge planning from mental health facilities.

Another report investigated a feasible and effective model for personal electronic usage in inpatient psychiatry. Upon arrival, patient phones were charged and stored in a locked room, and patients had to sign them out. To deal with privacy issues, all phones with cameras have tamper-proof stickers placed over the lens so staff can detect rule infractions. Under these conditions, patients are not allowed their devices unless they demonstrate good behavioural control and participation in treatment programs. Results of the study found positive effects of this policy and that clinical care has been improved in various ways. The “carrot” of PED privileges is an incentive leading to better behavioural control on the unit. This helps staff assess how the patients are coping with real life stressors. Furthermore, the policy has made discharge planning more streamlined, because patients can more easily participate in arranging aftercare appointments, contacting outpatient providers, and coordinating family meetings.

Telecommunication Rights: The National Stance

This section outlines the legal frameworks and initiatives in Victoria, New South Wales, Western Australia, Queensland, and Tasmania that protect these rights. It highlights the benefits of telecommunication, such as access to personal electronic devices, which enhance emotional support, social connections, and overall recovery for psychiatric patients. Additionally, it addresses necessary safeguards to prevent misuse of these devices. By examining both legal protections and practical implementations, this section underscores the importance of maintaining telecommunication rights in mental health care.

Victoria

Charter of Human Rights and Responsibilities Act

- Every patient has the right to enjoy his or her human rights, without discrimination.
- A patient must not be deprived of his or her property other than in accordance with law.
- Patients' rights to seek, receive and share information, to own electronic communication devices and to be considered equal

Mental Health Act

- Patients have the right to privately communicate information of all kinds (including audio and visual) and to communicate lawfully with any person.
- If a patient's right to communicate is restricted, this must be effected in the least restrictive way possible, within the context of a patient-centred, recovery-focused approach, with due consideration to alternative options to communicate.
    - Restrictions need to be reviewed regularly and ceased immediately when no longer necessary.

Personal electronic devices and privacy in designated mental health services

In Victoria, telecommunication rights is recognised as a crucial human right that should be addressed in clear internal policies and guidelines, which ensure that staff are informed of patient’s rights to communicate. For individuals being treated with mental illness, the use of electronic communication devices can promote recovery, helping patients gain and retain hope, meaning and purpose in life, help understand one’s abilities and disabilities, engage in an active lifestyle, personal autonomy, social identity, and maintain a positive sense of self.

New South Wales

Mental Health Rights Manual

- Chapter 3, Section C: In public hospitals, local districts have specific policies on whether access to phones is allowed. However, the confiscation of a phone needs to be justified.

The Private Health Facilities Regulation 2017

- Section 50: private hospitals must have telephone access for ingoing and outgoing calls on every floor of the mental health facility. (Does not mention personal devices).

Mental Health Act 2007

- Section 58: any restriction on the liberty of patients and other people with a mental illness and any interference with their rights, dignity and self-respect is to be kept to the minimum necessary in the circumstances.

Introducing mobile phones for consumer use in an acute mental health inpatient unit details a project by Southern NSW Local Health District (SNSWLHD) to introduce telecommunications into Acute Mental Health Inpatient Units, Rural Health Service and SNSWLHD, with the purpose of promoting connection for mental health inpatients through the access to mobile phones.

Patients were given slightly restricted access to mobile devices, unable to use camera, video, conversation recording features, and were not allowed to attempt to damage or throw their phones. They were also taught respectful use of their devices, such as using a private/quiet room to take phone calls, and keeping their phones on vibrate. The limited access still allowed patients to maintain relationships with family and friends and continue to manage private affairs such as bills and work while allowing for time with staff and treatment.

Feedback was collected through surveys completed by patients and staff.
Patients reported feeling supported and relieved with access to their phones, whether it was to contact friends and family or 'self-soothing' with internet features. They also felt that they had more control over their autonomy, and liked the independence they maintained by making their own choices.

This initiative reduced aggression and violence, which was attributed to the ability to speak with family and close friends, helping people's anxiety that originates from uncertainty. There was also less telephone traffic for staff, which allowed for other duties.

Royal North Shore Mental Health Survey on Electronic devices aimed to evaluate the attitudes of patients and staff in relation to the potential benefits and risks of allowing psychiatric inpatients controlled access to personal electronic devices. Collected by surveying the inpatients and staff of Royal North Shore Hospital. It is noted that 85% of NSW psychiatric inpatient units are denied access to personal electronic devices.

Responses indicated that access to devices assisted patients in maintaining important social supports; assisted the patient's recovery and sense of autonomy; allowed patients to continue to study, complete assignments and meet work commitments; the patient also may access the increasing number of apps that provide support for mental health and well-being.

Western Australia

Mental Health Act 2014

- Section 261: a patient's freedom for lawful communication includes the freedom to have uncensored communications with people, including receiving visits, sending and receiving telephone calls, and sending and receiving mail and electronic communications
- Section 262: a psychiatrist may not make an order prohibiting a patient from exercising the above right or limiting the extent to which a patient can exercise this right unless satisfied that making the order is in the best interest of the patient.

Inpatient Personal Devices Procedure was released in 2018 by Western Australia Country Health Services, discussing the procedures in place for phone usage for inpatients. There is access to mobile devices under the condition that patients can self-manage their usage without impacting others.

However, if phones are found to be used improperly, they can be taken away. This restriction is to be assessed by a psychiatrist every 24 hours and revoked if it is no longer in the best interest of the patient. Additionally, when phones are taken away, support and counselling should be provided to ensure patients understand the rationale for the removal, how long they will be without their phone, and how to access other means of phone communication.

Queensland

Mental Health Act 2016

- Section 284.1: patients of an authorised mental health service may communicate, in a reasonable way, with another person by:
    (a) Post
    (b) A fixed line telephone in the authorised mental health service; or
    (c) A mobile telephone or other electronic communication device.

However, there are exceptions to this.

- Section 284.2: this does not apply if the person being contacted has asked the mental health service to ensure the patient does not contact them or if communication is prohibited under another provision of this Act.

An administrator can also prohibit or restrict patients from communicating if they believe the communication is likely to be detrimental to the health and wellbeing of the person or others. However, in doing so, they must have regard to the privacy of the patient and others in the service.

Tasmania

Mental Health Act 2013

- Section 106: Covers patient telephone rights.
- Section 106.1: Forensic patients have the right to make, refuse to make, receive or refuse to receive telephone calls.
- Section 106.2: Responsible officials are allowed to deny a patient access to make or receive telephone calls if they reasonably consider that there are proper grounds to do so or if the patient or recipient does not wish to be contacted.
- Section 106.9: This right does not extend to a right to have possession of a mobile telephone or other kinds of telephonic device or component.