

Bastian Hancock Stynes

L A W Y E R S

Our Ref: KGS:SS:250011

Direct Email: ndalbo@bhslawyers.com.au

23 September 2025

Att: XXXX

Peninsula Health Mental Health Wellbeing Service
Frankston Hospital
2 Hastings Rd
Frankston VIC 3199

BY EMAIL TO:

THE PROBLEM WITH THIS IS THE MENTAL HEALTH ACT OF 2022 ALLOWS FOR THE PROVISION OF LEGAL REPRESENTATION. XXXX

Dear XXXX,

WHY IS BHS ASKING FOR PERMISSION WHEN ITS A LEGAL RIGHT AS PER THE LEGISLATION

Capacity Assessment | Angus Swendson

Frankston Hospital

We advise that we have been approached by Mr Angus Scott Swendson (date of birth 11/02/1980) to assist him with legal matters. We are instructed that you are Mr Swendson's treating doctor/psychologist.

We understand that Mr Swendson was admitted to the Peninsula Health Mental Health Wellbeing Service in the Frankston Hospital under a Variation of a Temporary Treatment Order to an Inpatient Treatment Order on 11 September 2025, and he remains an inpatient at the facility. Given the Treatment Order and that Mr Swendson was involuntarily admitted, we are seeking to confirm that Mr Swendson has the requisite capacity to instruct us to act on his behalf and that he understands the nature of his actions and their probable consequences so that his actions are not later challenged on the grounds of incapacity.

To have the necessary capacity, a person must:

1. Understand the nature and effect of information when it is explained;
2. Retain and understand information relevant to making decisions including the consequences of those decisions;
3. Use or weigh information as part of the process of making decisions; and
4. Communicate decisions, views, and needs clearly.

Where a person is deemed not to have the requisite capacity at the time that they seek to provide instructions, those instructions are invalid, and we are unable to accept those instructions to act on his behalf.

To be satisfied that Mr Swendson has the necessary capacity to instruct us to act for him in his legal matters we would be grateful if you would provide us with your written opinion in relation to the following matters:-

1. Mr Swendson's presentation both physically and mentally;
2. Mr Swendson's cognitive state;
3. Whether you consider that there is any physical or mental condition or diagnosis that would impair, affect or influence his ability to make decisions or judgements;
4. Whether Mr Swendson is currently taking any medications that may affect his cognitive capacity;
5. Whether you consider that Mr Swendson understands the nature and effect of information when it is explained to him;
6. Whether you consider that Mr Swendson is able to understand and weigh information relevant to making decisions and consider the consequences of those decisions;
7. Whether Mr Swendson understands the nature and possible consequences of engaging legal representation and his reasons for doing so; and
8. Whether he is able to clearly communicate his views and decisions.

Should you wish to discuss any aspect of the matters raised or require any clarification please do not hesitate to contact this office.

We thank you for your assistance.

Yours faithfully

Bastian Hancock Stynes Lawyers

Nadia Dal Bo
Senior Associate

Kimble Stynes
Partner