

Under the **Mental Health and Wellbeing Act 2022 (Vic)**, you (or the patient) are **entitled** to communicate with a lawyer.

The Act specifically removes the psychiatrist's power to block this. While an "Authorized Psychiatrist" can restrict communication with friends or family for safety reasons, **they are explicitly forbidden by law from restricting communication with a legal representative.**

If a psychiatrist is denying this, they are likely violating the Act. Here is the specific breakdown of why this happens, why it is unlawful, and who to call immediately to override them.

1. The Law is on Your Side (Section 56)

You are right to be angry. The law is black and white on this issue:

- **The Right:** A patient in a designated mental health service has the right to communicate lawfully (Section 55).
- **The Restriction Power:** An Authorized Psychiatrist can restrict communication if it is necessary for safety (e.g., stopping a patient from calling a victim of abuse).
- **The Exception (The "Carve-Out"):** Section 56 of the Act states that an Authorized Psychiatrist **cannot** restrict communication with:
 - **A legal representative**
 - **Independent Mental Health Advocacy (IMHA)**
 - The Mental Health Tribunal
 - The Chief Psychiatrist
 - The Mental Health and Wellbeing Commission

This means the psychiatrist has no legal power to say "No" to a lawyer.

2. Why Are They Doing It? (The Excuses)

If the law is so clear, why is the doctor doing this? In practice, they often use "clinical" reasons to obstruct "legal" rights. These are the most common unauthorized justifications:

- **The "Capacity" Fallacy:** The doctor claims the patient is too unwell to instruct a lawyer.
 - *The Reality:* It is **not the doctor's job** to decide if a patient can instruct a lawyer. That is the lawyer's job. A lawyer can visit, assess the patient, and if the patient cannot give instructions, the lawyer will act as a "best interests" independent representative. The doctor cannot gatekeep this.
- **The "Agitation" Excuse:** The doctor claims that speaking to a lawyer upsets the patient and makes their condition worse.
 - *The Reality:* This is unlawful. They cannot treat "exercising rights" as a symptom of illness. Even if the patient is agitated, the hospital must facilitate the call (e.g., by supervising the phone use or having the lawyer visit in person).
- **Logistical Obstruction:** They aren't saying "No" on paper; they are just saying, "The phones are broken," "It's outside business hours," or "We don't have staff to supervise the call."

- *The Reality:* This is a "constructive denial" of rights and can be challenged immediately.

3. Immediate Steps to Fix This

Since the psychiatrist is blocking you, you need to go over their head. **You do not need the psychiatrist's permission to contact these bodies.**

Step 1: Contact "IMHA" (Independent Mental Health Advocacy)

This is a free state-funded service specifically designed for this situation. They have the power to enter the ward and demand access.

- **Phone:** 1300 947 820 (Monday to Friday, 9.30 am – 4.30 pm)
- **Action:** Tell them: "*I am an inpatient (or representing one) and the psychiatrist is blocking access to legal counsel in breach of Section 56.*"

Step 2: Contact Victoria Legal Aid (Mental Health and Disability Law)

They have lawyers who specialize in forcing hospitals to comply with the Act.

- **Phone:** 1300 792 387
- **Action:** Ask for the "Mental Health Duty Lawyer."

Step 3: Complaint to the Mental Health and Wellbeing Commission

If the hospital persists, this is the watchdog body.

- **Phone:** 1800 246 054

Summary for the Hospital Staff

If you are speaking to a nurse or the psychiatrist right now, you can say this:

"Section 56 of the Mental Health and Wellbeing Act 2022 explicitly states that you cannot restrict my communication with a legal representative or an advocate. Denial of this right is a breach of the Act. I am requesting that you facilitate a call to Victoria Legal Aid or IMHA immediately."

Would you like me to give you the specific web link to the IMHA 'Self-Advocacy' form so you can request an advocate online right now?