

Mental Health Act 2016
Chief Psychiatrist Policy

Notifications to the Chief Psychiatrist of critical incidents and non-compliance with the Mental Health Act 2016

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General

The Chief Psychiatrist promotes adherence to clinical standards and best practice in the administration of the [Mental Health Act 2016](#) (the Act) and is responsible for accountability and transparency as an essential part of governance arrangements and continuous quality improvement.

The Chief Psychiatrist's core functions under the Act include:

- protecting the rights of patients,
- ensuring the involuntary examination, assessment, treatment, care and detention of persons under the Act complies with the Act,
- facilitating the proper and efficient administration of the Act, and
- monitoring and auditing compliance with the Act.

The Act also provides that the Chief Psychiatrist may, by written notice, require the administrator of an authorised mental health service (AMHS) to provide the Chief Psychiatrist with a stated document or information about a patient who is, or has been, examined, assessed or treated in the service, or any other matter relevant to the Chief Psychiatrist's functions. The administrator must comply with the notice.

AMHS administrators must ensure that the Chief Psychiatrist is notified as soon as practicable of any critical incident involving a patient, or any incident involving significant non-compliance or suspected non-compliance by the AMHS with the Act.

Scope

This Policy is mandatory for all AMHSs. An authorised doctor, authorised mental health practitioner (AMHP), AMHS administrator, or other person performing a function or exercising a power under the Act **must** comply with this Policy.

For public sector AMHSs, notifying the Chief Psychiatrist of the events specified in this Policy is in addition to any requirements under other legislation such as the [Hospital and Health Boards Act 2011](#).

Public sector AMHS are required to comply with the requirements of the [Patient Safety Health Service Directive \(QH-HSD-032:2014\)](#) and the [Health Service Directive Patient Safety Guideline for Clinical Incident Management \(QH-HSDGDL-032-2\)](#).

For private sector AMHSs, notifying the Chief Psychiatrist of the events specified in this Policy is in addition to the requirements specified in any other legislation such as the [Private Health Facilities Act 1999](#).

This Policy **must** be implemented in a way that is consistent with the Objects and Principles of the Act.

Policy

1 Critical incidents, significant and suspected non-compliance

AMHS administrators **must** ensure notification to the Chief Psychiatrist of a 'critical incident' or incident involving significant non-compliance or suspected non-compliance with the Act, involving a patient of the service.

The administrator **must** ensure notification to the Chief Psychiatrist as soon as practicable¹ after becoming aware of the incident.

Key Points

Critical incidents include:

- Clinical incidents requiring mandatory reporting under existing legislation:
 - the death, or injury resulting in likely permanent harm, of a person receiving treatment or care for a mental illness in an AMHS
 - the death, or injury resulting in likely permanent harm, of a person who, within thirty (30) days preceding their death, received treatment or care for a mental illness as a patient of an AMHS, if the AMHS becomes aware of the person's death or injury.
- Additional clinical incidents to be notified:
 - an incident resulting in significant mental or physical harm to an inpatient
 - allegations of sexual assault or sexual safety incidents resulting in significant mental or physical harm involving an inpatient
 - a serious adverse clinical incident such as the incorrect administration of medication to a patient which could have resulted in serious harm.
- Additional incidents outside of existing legislative reporting requirements:
 - any incident (clinical or non-clinical) affecting the health, safety or well-being of a patient or another person which could attract public attention or adversely affect the organisational reputation of the AMHS (see section 2.1.2).

¹ Under the Chief Psychiatrist Policies for [Seclusion](#), [Physical Restraint](#) and [Mechanical Restraint](#), the Chief Psychiatrist must be notified **immediately** if seclusion, physical restraint or mechanical restraint results in, or is associated with, the death of a patient, or significant harm to a patient or other person, during the seclusion or restraint or within **24 hours** of the seclusion or restraint.

Significant non-compliance means:

- detention of a person other than in accordance with the Act, or
- provision of a regulated treatment (e.g. electroconvulsive therapy) other than in accordance with the Act, or
- the use of seclusion, mechanical restraint, physical restraint or administration of medications other than in accordance with the Act, or
- a breach of any offence provision of the Act (e.g. ill-treatment of patients, contravention of the confidentiality obligations, assisting a patient to unlawfully absent themselves, giving false or misleading information to an official, and obstructing of an official).

Suspected non-compliance means:

- a matter involving possible non-compliance which has yet to be determined as non-compliance with the Act and may require formal investigation at service level and/or by the Chief Psychiatrist.

2 Notification process

2.1 Critical incidents

2.1.1 Critical incidents that relate to a clinical incident

Key Points

The Chief Psychiatrist is notified of critical incidents which relate to a clinical incident as follows:

- **Public sector AMHS:**
 - Notification is made through the Queensland Health clinical incident reporting system. The Office of the Chief Psychiatrist receives notification reports from the Department of Health Patient Safety and Quality Improvement Service generated from the Queensland Health clinical incident reporting system.
- **Private sector AMHS:**
 - Notification is made with the Notification of Critical Incidents (Private Sector Authorised Mental Health Services) form.

AMHS administrators must provide the Chief Psychiatrist with a copy of any local clinical incident analysis within **ninety (90) days** of the notification of the incident.

Notification under other Chief Psychiatrist Policies should also be provided in line with notification requirements in those policies.

In addition to the above notification process, AMHSs should use their discretion as to the need to also advise the Office of the Chief Psychiatrist directly of critical incidents via MHA2016@health.qld.gov.au or via phone contact with the Chief Psychiatrist.

2.1.2 Critical incidents relating to organisational, public and media risks

Key Points

The Chief Psychiatrist must be notified, by phone contact, as soon as practicable of any incident (clinical or non-clinical) affecting the health, safety or well-being of a patient or another person which could attract public attention or adversely affect the organisational reputation of the AMHS.

Written notification must also be made via MHA2016@health.qld.gov.au and must include:

- person details (who)
- incident details (what, when and where)
- facility/service type
- RiskMan reference number (if applicable), and
- outcome (including facility/service response and planned actions).

AMHS staff should refer to the relevant HHS or organisational media relations policy and local procedures to ensure legislative requirements, patient privacy obligations and community expectations are met.

2.2 Significant legislative non-compliance or suspected non-compliance

AMHS administrators **must** notify the Chief Psychiatrist of significant or suspected non-compliance, by completing the [Notification to the Chief Psychiatrist of Significant Non-compliance form](#) in the Consumer Integrated Mental Health Application (CIMHA), as soon as practicable. The Office of the Chief Psychiatrist receives an automatic notification once the form is completed.

This notification **must** occur whether or not the significant or suspected non-compliance results in harm to the patient.

2.2.1 Notification process when matter is subject to another investigation process

If the Administrator of an AMHS is concerned about confidentiality and privacy issue surrounding a significant or suspected non-compliance event, due to other ongoing investigative process within the service, the Administrator of the AMHS **must** notify the Chief Psychiatrist of the matter by phone and email.

The email **must** contain the following:

- details of the incident, and
- why the non-compliance event cannot be recorded on the patients CIMHA profile, including details of the ongoing review or investigation process.
- A copy of the [Notification to the Chief Psychiatrist of Significant Non-compliance form](#).

The form **must not** be uploaded against the patients CIMHA profile until notification of the outcome of the other investigation/review is provided to the Chief Psychiatrist.

3 Chief Psychiatrist actions

The Chief Psychiatrist will review notifications of critical incidents and significant or suspected non-compliance, and any associated incident analysis, with a view to identifying clinical governance and systemic issues in relation to the assessment and treatment and care of patients.

Key Points

The Chief Psychiatrist may:

- require the AMHS Administrator to provide specific information about the treatment and care of a patient or patients of the service. The Administrator must comply with the notice.
- require remedial actions and/or system improvements at local service or state-wide levels.
- undertake an investigation under the Act into any incident, legislative breach or suspected legislative breach involving the mental health assessment, treatment and care of a patient/s in an AMHS.
- inform the Private Health Regulation Unit, Office of the Chief Health Officer regarding any actions taken by the Chief Psychiatrist that may be relevant to licensing of private health facilities.

4 Recording

The AMHS Administrator **must** ensure that the details of the incident or significant legislative non-compliance/suspected non-compliance are recorded in the patient's clinical record. Wherever possible, this should be recorded on CIMHA.

Issued under section 305 of the *Mental Health Act 2016*.

Dr John Reilly
Chief Psychiatrist, Queensland Health
15 April 2020

Definitions and abbreviations

Term	Definition
AMHS	Authorised mental health service – a health service, or part of a health service, declared by the Chief Psychiatrist to be an authorised mental health service. AMHSs include both public and private sector health services. While treatment and care is provided to both voluntary and involuntary patients, additional regulation applies under the Act for persons subject to involuntary treatment and care.
CIMHA	Consumer Integrated Mental Health Application – the statewide mental health database which is the designated patient record for the purposes of the Act.
Patient	<ul style="list-style-type: none"> • An involuntary patient, or • A person receiving treatment and care for a mental illness in an AMHS, other than as an involuntary patient, including a person receiving treatment and care under and Advance Health Directive or with the consent of a personal guardian or attorney.

Referenced documents and solicies

[Notification to the Chief Psychiatrist of Significant Non-compliance form](#)

[Hospital and Health Boards Act 2011](#)

[Patient Safety Health Service Directive \(QH-HSD-032:2014\)](#)

[Health Service Directive Patient Safety Guideline for Clinical Incident Management \(QH-HSDGDL-032-2\).](#)

[Private Health Facilities Act 1999](#)

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