CHAPTER 2 – AUTHORISED MENTAL HEALTH SERVICES, STATUTORY OFFICERS AND STATUTORY BODIES

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1. **Introduction**

The Mental Health Act 2000 (the Act) establishes a number of statutory positions and bodies with specific functions and responsibilities. The Act also establishes authorised mental health services to provide treatment or care to people subject to the involuntary assessment and treatment provisions or forensic provisions of the Act.

The provisions of the Act summarised below can be read in full in the Mental Health Act 2000, Chapter 11 (Mental Health Court), Chapter 12 (Mental Health Review Tribunal) and Chapter 13 (Administration).

1.1 **Director of Mental Health resources**

Director of Mental Health resources of particular relevance to this chapter include:

- *Policy for appointment, renewal, transfer and cessation of appointment of authorised mental health practitioners*
- *Policy for appointment, renewal and cessation of appointment of authorised doctors*
- *Policy for declaration of an authorised mental health service facility (limited functions)*

2. **Authorised mental health services (s495)**

Authorised mental health services are health services authorised under the Act to provide for the treatment and care of persons with mental illness.

Authorised mental health services are declared by the Director of Mental Health (the Director). An authorised mental health service may comprise both community based facilities and non-community facilities (in-patient facilities).

In-patient facilities are generally located within general hospitals. In-patient facilities include ‘in-patient and specialist health units’ within a hospital and are not limited to specialist mental health units. It is intended that authorised mental health services in hospitals encompass all areas of the hospital that provide health assessment, treatment and care, including emergency departments, to enable patients to readily access health services in the general hospital environment without the need for special approvals.

To avoid doubt, an emergency department is considered to be part of an in-patient facility for the purposes of the following sections of the Act:

- taking a person to an authorised mental health service for admission as a classified patient under section 68
♦ taking a person subject to a court order pursuant to section 101 to an authorised mental health service under section 106
♦ seclusion of involuntary patients under section 162L and release from seclusion under section 162V;
♦ return of patients to an authorised mental health service under section 508.

The grounds of the hospital and non-treatment facilities on the hospital campus are specifically excluded from the scope of an authorised mental health service. Areas such as the hospital canteen, post office, general recreational and other non-health service delivery areas are not regarded as components of the authorised mental health service. Appropriate approval (i.e. limited community treatment) is therefore required for patients to access those areas.

The Director may impose or apply specific limitations to an authorised mental health service via policy under sections 309A and 493A of the Act, for the purposes of providing short-term and/or emergency mental health treatment, pending transfer if required to a larger authorised mental health service facility with a dedicated in-patient mental health unit.

An authorised mental health service facility with limited functions will usually consist of a general hospital in a remote or rural location without a dedicated in-patient mental health unit. The Policy for declaration of an authorised mental health service facility (limited functions) outlines clear specifications of the extent of mental health treatment services to be provided at specified facilities. No limitations are imposed on the provision of mental health examination or assessment of involuntary patients.

The administrator of an authorised mental health service is responsible for ensuring that:

♦ appropriate specialist staff escort is provided when patients access assessment, treatment and care outside mental health units;
♦ areas excluded from the authorised mental health service are clearly defined and that all staff are familiar with the service boundaries; and
♦ ensure any relevant policies and practice guidelines about the treatment and care of patients issued by the director under the Act are given effect including limitations on treatment services.

The Schedule of Authorised Mental Health Services (listing all gazetted authorised mental health services) is available at: https://www.health.qld.gov.au/publications/clinical-practice/guidelines-procedures/clinical-staff/mental-health/amhs_schedule.pdf
Alternatively, information regarding the schedule may be obtained by contacting a Mental Health Act Liaison Officer on 07 3328 9899 (for mental health staff) or 1800 989 451 (for public enquiries).

The administrator must ensure facilities contained in the schedule remain current and, where appropriate, request changes through the Director. This includes for example, changes to the address of a component facility or addition of a new component facility.

3. Statutory officers

3.1 Director of Mental Health (s309A, 488-494)

The Director of Mental Health is appointed by the Governor in Council.

The Director has broad functions relating to the administration of the Act. These include:

- ensuring the protection of the rights of involuntary patients under the Act, and balancing these with the rights of others;
- ensuring the involuntary admission, assessment, treatment and care of persons complies with the Act;
- monitoring and auditing compliance with the Act;
- issuing policies and practice guidelines about the treatment and care of involuntary patients;
- facilitating the proper and efficient administration of the Act;
- promoting community awareness and understanding of the administration of the Act; and
- advising and reporting to the Minister on any matter relating to the administration of the Act.

The Director must produce an annual report on the administration of the Act each financial year. Annual reports can be viewed at:


The Director also has a number of specific powers and functions relating to the administration of the Act (for example, establishing authorised mental health services and appointing certain statutory officers) and individual patients (for example, decision making about patients involved in forensic processes).

The Director may delegate certain powers under the Act to an appropriately qualified public service officer or a health service employee. In practice, the Director delegates functions to a number of senior psychiatrists within...
Queensland Health to ensure the Director’s functions and powers under the Act can be executed effectively at all times.

3.2 Administrator (s497)

The administrator is determined by the Director. The Director may state the administrator by name or by reference to the holder of a particular position.

The administrator provides administrative single point accountability in each authorised mental health service. In broad terms, the administrator is responsible for ensuring the effective administration of the Act at the service level. This includes compliance with legislative requirements as well as policies and practice guidelines issued by the Director.

The administrator also has an extensive range of specific powers and functions under the Act. This includes appointing certain statutory officers, maintaining statutory registers and undertaking specified functions in relation to involuntary patients (for example, arranging examinations and assessments, giving notifications to patients, the Director and other parties).

The administrator may delegate functions to appropriate personnel within the authorised mental health service. In practice, this includes clinical and administrative staff. The administrator must ensure the delegations are in writing and are reviewed regularly.

Where there is a proposed change to the position nominated as administrator, a request should be made to the Director.

3.3 Health practitioner (schedule - dictionary)

A person is automatically a health practitioner by definition under the Act if the person falls under one of the following categories: a doctor, registered nurse, occupational therapist, psychologist, or a social worker engaged in providing health services.

In addition, the administrator may appoint a person with the necessary training, qualifications and expertise to be a health practitioner. This may include, for example, a social work associate or enrolled nurse. The appointment must be in writing and may be limited to the functions the administrator considers appropriate, having regard to the person’s training and experience.

A health practitioner is empowered to take a person, for whom assessment documents have been made, to an authorised mental health service, and to return a patient to the service in specified circumstances (for example, when the patient is absent without permission or being returned as a result of non-compliance with an involuntary treatment order (community)). A
health practitioner may also be authorised by a doctor or senior registered nurse to search a patient or a patient’s possessions.

Note that additional requirements relating to the appointment of health practitioners for the purpose of conducting a search are discussed in chapter 15 of the Resource Guide.

The administrator must maintain a register of appointed health practitioners.

The administrator must also ensure the information system is updated to include all administrator appointed health practitioners.

3.4 Authorised mental health practitioner (s499)

Authorised mental health practitioners are appointed by the Director. The Director must be of the opinion that the health practitioner has the necessary expertise and experience to undertake the role.

An authorised mental health practitioner is empowered to make a recommendation for assessment for a person. This document, in conjunction with a request for assessment, authorises the involuntary assessment of a person at an authorised mental health service.

While authorised mental health practitioners are appointed to a particular authorised mental health service, the practitioner may exercise their functions state-wide (i.e. the practitioner is not limited to the geographic boundaries of the authorised mental health service). However, a practitioner who is employed at more than one authorised mental health service and wishes to undertake the functions of an authorised mental health practitioner for both services requires the endorsement of both/all of the relevant administrators. Also see Policy for appointment, renewal, transfer and cessation of appointment of authorised mental health practitioners in Appendix 1.

The administrator must ensure the information system is updated to include all authorised mental health practitioners within the service as a user.

3.5 Doctor

A doctor is any medical practitioner registered under the Health Practitioner Regulation National Law Act 2009.

A doctor is empowered to make a recommendation for assessment for a person. This document, in conjunction with request for assessment, authorises the involuntary assessment of a person at an authorised mental health service. A doctor is also empowered to authorise a period of
seclusion and the use of mechanical restraint for an involuntary patient at an authorised mental health service.

3.6 Authorised doctor (s504)

An authorised doctor is empowered to make, amend and revoke an *involuntary treatment order*. An authorised doctor may also authorise a patient’s return to an authorised mental health service (for example, when the patient is absent without permission or needs to be returned as a result of non-compliance with an *involuntary treatment order (community)*) and limited community treatment in accordance with required approvals.

Authorised doctors are appointed by the administrator of an authorised mental health service. The administrator must be of the opinion that the doctor has the necessary expertise or experience to undertake the role in making the appointment. Appointments must be in writing and are to be renewed on an annual basis.

Doctors that may be appointed as authorised doctors include, but are not limited to, psychiatrists, psychiatry registrars and senior medical officers. In rural or remote areas, appointments may include a medical superintendent or a general practitioner.

If the administrator is a psychiatrist, the administrator is automatically an authorised doctor for the health service.

The administrator appoints an authorised doctor to perform functions in relation to involuntary patients of a particular authorised mental health service. However, a doctor may be appointed as an authorised doctor at more than one authorised mental health service.

The administrator may, in the instrument of appointment, specify limitations to the authorised doctor’s functions or require that the function be undertaken subject to specified conditions (for example, functions to be exercised under the supervision of a psychiatrist at the authorised mental health service). Also see *Policy for appointment, renewal and cessation of appointment of authorised doctors* in Appendix 2.

The administrator must ensure the information system is updated to include details of all authorised doctors appointed within the authorised mental health service.

3.7 Authorised psychiatrist (schedule - dictionary)

An authorised psychiatrist is an authorised doctor who is a psychiatrist.

A psychiatrist is a person registered under the *Health Practitioner Regulation National Law Act 2009* as a specialist registrant in the specialty of psychiatry.
References to an authorised doctor (in the Act or the Resource Guide) should be understood to include an authorised psychiatrist.

4. **Statutory bodies**

4.1 **Mental Health Review Tribunal**

The Mental Health Review Tribunal (the Tribunal) is an independent statutory body established under the Act to protect the rights of people receiving involuntary treatment for mental illness.

The Tribunal is comprised of a President (an experienced legal practitioner) and other members appointed by the Governor in Council. Member categories include:

- legal practitioners;
- psychiatrists; and/or
- other people with relevant expertise and experience.

Panels are formed to undertake the work of the Tribunal. Panels typically consist of three (3) to five (5) members with representation from each of the member categories. The presiding member of a panel is usually the President or another legal member.

The Tribunal’s jurisdiction includes:

- review of *involuntary treatment order* patients;
- review of forensic patients;
- review of the detention of young people in a high security unit;
- determining treatment applications;
- determining applications for patients to move out of Queensland;
- determining applications for *forensic information orders*;
- determining appeals against a decision of the administrator to not allow a person to visit an involuntary patient;
- determining appeals against an order of the Director in relation to suspension of limited community treatment; and
- deciding applications by the Director or Director of Forensic Disability for transfers between authorised mental health services and the Forensic Disability Service, where agreement cannot be reached.

The Tribunal is required to exercise its jurisdiction in a fair, just, economical, informal and timely manner.
Additional information about the Tribunal may be accessed at [http://www.mhrt.qld.gov.au](http://www.mhrt.qld.gov.au) or by contacting the Tribunal on 07 3235 9059 or 1800 006 478.

### 4.2 Mental Health Court

The Mental Health Court is comprised of Supreme Court Judges appointed by the Governor in Council. One Judge is appointed as President of the Mental Health Court.

The Governor in Council also appoints senior psychiatrists to the position of ‘assisting psychiatrist’ to the Mental Health Court.

Hearings of the Mental Health Court are conducted by one of the appointed Judges. Assisting psychiatrists (usually two (2)) sit with the Judge. However, they do not have a decision making function. Their primary role is to assist the Judge to understand the psychiatric evidence.

The Mental Health Court’s jurisdiction includes:
- determining references about persons charged with a criminal offence;
- determining appeals against a decision of the Tribunal;
- investigating the detention of patients in authorised mental health services;
- investigating the detention of forensic disability clients in the forensic disability service; and
- deciding applications made under s607 for an order changing a forensic order (Mental Health Court) to a forensic order (Mental Health Court Disability).

The Mental Health Court has broad powers of inquiry and may inform itself in any way it considers appropriate. It is not bound by the rules of evidence (unless the Mental Health Court determines otherwise in a particular matter) and can accept material that might otherwise be inadmissible in Mental Health Court proceedings.