SEARCHES
IN AUTHORISED MENTAL HEALTH SERVICES

CLINICAL PRACTICE GUIDELINES

(December, 2008)
FORE WORD

The Clinical Practice Guidelines for Searches in Authorised Mental Health Services in Queensland are a safety and quality initiative implemented as a result of Achieving Balance: Report of the Queensland Review of Fatal Mental Health Sentinel Events (2005).

In February 2004, the then Director General of Queensland Health established a committee to undertake the Queensland Review of Fatal Mental Health Sentinel Events. The task of the review was to investigate 45 deaths involving people with serious mental illness to determine the systemic issues in mental health services that need to be addressed.

The report outlined 60 Recommendations addressing (but not limited to) the following issues:

- Standardisation of processes around assessment, treatment, searching, discharge planning and inpatient observations; and
- Improving communication and information management.

Development and implementation of these guidelines is the main strategy to facilitate.

Recommendation 18:

Mental health services develop and implement policies (or review existing policies) regarding the searching of patients and others within the framework of the Mental Health Act 2000. These policies should address:

- Matters related to undertaking routine searching of patients on admission to inpatient facilities;
- Situations where more detailed searching is indicated;
- The process to be followed when patients are searched;
- The issue of privacy and dignity of patients being maintained;
- An indicative list of potentially harmful things;
- Action to be taken when items which are potentially hazardous are found;
- Reviewing the list of potentially harmful things in the light of incidents or sentinel events.

In keeping with guideline management best practice, the guidelines will undergo routine and regular review by the Queensland Health Statewide Mental Health Network.

It is my expectation that all mental health services adopt these guidelines and that staff make themselves familiar with how their unit is implementing the guidelines.

(signed by Dr Aaron Groves)

Dr Aaron Groves
Director of Mental Health
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1. Purpose

The safety of patients, staff, and other persons present in a mental health service is a paramount consideration. Of equal importance is ensuring that safety is protected with the maximum regard for individual rights. Whilst the undertaking of necessary and lawful searches of both consumers and visitors can make an important contribution to the effective and safe management of aggressive and self-harming behaviour in psychiatric in-patient settings; unlawful, insensitive and unnecessary searches can also exacerbate these behaviours. Non-consensual search (in particular, search of the person) represents a significant personal intrusion. The importance of determinations for authorising of searches should therefore be made on an individual case-by-case basis.

The Mental Health Act 2000 (MHA2000) Chapter 10, Part 3 outlines the legislative provisions that apply to searches of persons and their possessions conducted within authorised mental health services.

These guidelines have been developed to facilitate consistency with search practices whilst remaining in accordance with the legislative provisions of the MHA2000. The purpose of searches is to 'ensure the protection of patients and the security and good order of authorised mental health services' (s352, Chapter 10, Part 3, Div 1, MHA 2000). This promotion of safety and security should also balance with a focus on the individual rights of consumers and the maintenance of privacy and dignity as much as possible.

Mental health services should develop individual procedures and protocols that apply the principles in the guidelines, yet allow for variations that ensure practices remain within the resources and service capability that is available to the health service. The procedures established should ensure that any local variations remain within the provisions of the MHA2000.

2. Scope

The guidelines are applicable to all Queensland Health clinicians who participate in the assessment and/or treatment of mental illness for patients in all health settings of authorised mental health services (including mental health inpatient facilities, emergency departments, and other clinical areas that treat patients with a mental illness).

The guidelines:
- define the types of searches that should be used and the clinical indications for their implementation;
- describe the roles and responsibilities of personnel involved in searches;
- provide clear rationale and defined processes in accordance with the provisions of the MHA2000, that enable Queensland Health to be consistent in the application of searches to improve safety for all patients, visitors, and staff.
3. Review

The guidelines will be reviewed in 2011 by the Statewide Mental Health Network or before if there are policy and process changes for:
- corporate and clinical governance in Queensland Health;
- legislative compliance requirements.

4. Legislation

The relevant legislative provisions for searches within authorised mental health services are outlined within the MHA2000, Chapter 10 Security of Authorised Mental Health Services, Part 3 – Searches.

5. Principles

The principles of searches of persons and possessions within authorised mental health services are:
- to provide a safe environment, in the least restrictive manner possible, for consumers, visitors and staff within the health service;
- the consent of the person it is proposed to search should always be sought in the first instance;
- searches must be considered and authorised only on an individual case-by-case basis;
- all persons involved with the authorisation and conducting of searches must possess knowledge of or have access to the related legislative provisions within the MHA2000;
- all facilities should have a procedure on the searching of consumers, their belongings and the environment in which they are accommodated, and also the searching of visitors. These must remain in accordance with the legislative provisions of the MHA2000;
- the level of intrusiveness of any personal search undertaken must be a reasonable and proportionate response to the reason for the search;
- searches should be undertaken by appropriately trained staff;
- post-search support for all those involved should be provided.

7. Legal Considerations

Due to the intrusive nature of searches, health practitioners who perform searches unlawfully or without meeting the legislative provisions outlined in MHA2000 could potentially be liable to civil action from the person being searched. Unlawful searches constitute assault. Under the Criminal Code Act 1889 (Qld), Assault is defined as in s.245 as a person who strikes, touches or moves, or otherwise applies force of any kind to, the person of another, either directly or indirectly, without the other person’s consent, or with the other person’s consent if the consent is obtained by fraud, or who by any bodily act or gesture attempts or threatens to apply force of any kind to the person of another without the person's consent, under such circumstances that the person making the attempt or threat has actually or apparently a present ability to affect the person’s purpose, is said to assault that other person, and the act is called an assault.

A search of a patient for the purposes of the MHA2000 would therefore constitute an assault unless justified or excused by law. An assault may be authorised or excused by law either in the MHA2000 itself, by a valid search conducted pursuant to Chapter 10, Part 3, or in s.246 of the Criminal Code: an assault is unlawful and constitutes an offence unless it is authorised or justified or excused by law.
8. Pathway for Searches Process

The following table briefly outlines the pathway required when considering searches within authorised mental health services. Each step is detailed further within the guidelines.

![Pathway Diagram]

9. Provision of Information Related to Searches and Harmful Items

i) Information regarding Searches
The consumer/visitor should be provided with information about why they and/or their possessions are being searched, the aims of the search, the supporting legislation and when searches are likely to occur. The information should also include what property can be seized, what happens to seized property, and the complaint process available if there is a dispute of the decision to search. Appendix 3 provides a template of a Consumer Information Guide.

ii) Potentially Harmful Items List
Authorised mental health services should develop an indicative list of potentially harmful items to provide an informative guide to staff, consumers and visitors what items are allowed within the facility and also to allow for consistency of items searched for and seized. The purpose of the list is to raise awareness of staff within authorised mental health services of what can be used (and has previously been used) as a potentially harmful item. The list can also be used to inform consumers and visitors (through signage and/or pamphlets) of items that are not permitted within an authorised mental health service (category A) or items that are to be handed in to staff of the
authorised mental health service (category B). The lists should not be viewed as prescriptive in its application and still needs to be assessed on an individual basis (recognising the risks identified for consumer and other consumers). Also, it should NEVER discount that ANY item can potentially be used as a harmful item and clinical judgement needs to be focussed on an individual basis regarding the person’s assessed risk and treatment plan (eg. Risk Screen, ICP, etc.).

A potentially harmful items list should consist of at least three categories:

a) **CATEGORY A – PROHIBITED:**
   Items that are not allowed within the possession of any persons in an authorised mental health service under any circumstances (eg. gun or replica gun, dangerous drug/illicit substances, drug implements, alcohol, medication, knives, needles/syringes, plastic bags).

b) **CATEGORY B – RESTRICTED:**
   Items that are to be stored in a secure environment, but may be in the possession of consumer at negotiated times or by request. Monitoring of the items (release and return) needs to be specified in local policies. (eg. lighters and matches, glues/solvents, razor blades, scissors, electrical cords, knitting/sewing equipment, arts and craft equipment, nail files).

c) **CATEGORY C – OPTIONAL:**
   Items that are to remain in the possession of consumers but needs consideration as a potentially harmful item by staff if consumer’s mental state deteriorates or risks within the immediate environment identified. (eg. pens/pencils, shoe laces, aluminium cans, aerosol cans, glass bottles, wire coat hangers, after shave lotion/perfume (flammable liquids), cords (phone chargers, headphones), neck ties/scarves, belts.

d) A separate list should also be done for **Psychiatric Intensive Care Units (PICUs)/High Dependency Units (HDUs)** (**High Dependency Unit Guidelines**).

These lists should be visually prominent in the unit and provided to staff, consumers, and visitors upon request. Individual service procedures should make note of any local variations that exist and the reasons for variation. Any consumer that has been given permission to possess any item listed as Category A or B (as per local procedure) requires documentation in the medical record/treatment plan as to reasons and duration.

10. Obtaining Consent Prior to Search

Consumers and visitors should be provided with information regarding harmful items that are not allowed within facilities and those that should only be in possession with staff supervision. All possible efforts must be made by clinicians to negotiate with the consumer to voluntarily hand over any potentially harmful items that may be requested. Only once this procedure has been exhausted may the option of search be considered.

Prior to any search being conducted, informed consent should be obtained from the consumer (and/or visitors in high security units). This must include a full explanation to the consumer of why a search is deemed necessary, and what is being searched for. The consumer must also be made aware of what will occur with seized items and any available process should the consumer wish to lodge a future complaint against the decision. The health practitioner should be satisfied that the patient understands the explanation.
In the event that the consumer is a child or person under the age of consent, a parent or person with parental authority must be informed and, where possible, be present.

If consent is unable to be obtained, then authorisation for proceeding with the search can occur.

11. Authorisation of Searches

i) AMHS, other than High Security Units

In accordance with the MHA2000, searches within authorised mental health services can only occur ‘...if a doctor, or the senior registered nurse on duty, at an authorised mental health service reasonably believes a patient in the health service has possession of a harmful thing.’:

- ‘patient’ in this context is defined in the MHA2000 as ‘...in an authorised mental health service, means any person admitted to or assessed, examined, detained or treated for a mental illness in the health service.’. This includes voluntary patients.

- ‘harmful thing’ is defined as ‘anything –
  a) that may be used to –
    i) threaten the security or good order of an authorised mental health service; or
    ii) threaten a person’s health or safety; or
  b) that, if used by a patient in an authorised mental health service, is likely to adversely affect the patient’s treatment. (MHA2000)

- ‘reasonably believes’ is defined as ‘... believes on grounds that are reasonable in the circumstances’. (MHA2000)

Examples of ‘reasonably believes’ may be:

- a reasonable belief may be formed when told by another person/s that they observed the patient with a particular item, or that they heard the patient talking about possessing a particular thing;
- a reasonable belief may also be formed on the basis of observed behaviour (eg. patient observed to be secreting or hiding something on their person when observed by staff, and refuses to discuss, or denies this, or rapid deterioration in mental state indicating potential use of illicit substances).

Once consent to voluntarily hand over items upon request has been attempted and not obtained and ‘reasonable belief’ remains that the consumer is in possession of a harmful thing, an authority to search can occur. This is outlined in s.354 of the MHA2000:

(1) the doctor or nurse may search, or authorise another health practitioner to search, the patient or the patient’s possessions;
(2) the search may be carried out without the patient’s consent;
(3) however, before carrying out the search, the doctor or nurse must tell the patient the reasons for the search and how it is to be carried out.

The MHA2000 defines a ‘health practitioner’ as:

(a) a doctor, registered nurse, occupational therapist or psychologist or a social worker engaged in providing health services; or
(b) a person appointed under section 505A(1).
Enrolled Nurses within an authorised mental health service can be appointed by the administrator under section 505A (1), to carry out searches under the authorisation of a doctor or senior registered nurse. Security officers may assist with restraint or observation during a search, but are unable to conduct searches as pertaining to the provisions of the MHA2000.

When authorising searches, the doctor or senior registered nurse on duty should have regard to the individual circumstances of the case. Relevant factors will vary with individual circumstances but may include, for example:
- the reasons for the patient's objection to search;
- the patient's history;
- any collateral information;
- the environment, including items that might constitute a harmful thing in that environment.

ii) High Security Units

Authorisation of searches varies with high secure units in their reasons and delegations.

Searches within high secure units may be authorised by an authorised officer under the MHA2000. This refers to:

a) a health practitioner providing mental health services at the unit; or
b) a security officer for the unit.

Identity cards for authorised officers must be approved by the administrator of the AMHS and provided to authorised officers within a high security unit. (s.372, MHA 2000)

Reasons for searches to be conducted in a high security unit differ in that it applies on a person's admission as a patient, or a patient's entry, to a high security unit. In these circumstances, the authorised officer may search the patient and/or their possessions for the detection of any harmful items. The authorised officer must inform the patient the reasons for the search and how it is to be carried out. As with consumer searches in other authorised mental health services, the search may be carried out without the patient's consent.

iii) Authorisation of Detailed Searches

In circumstances where more detailed searching is required (eg. removal and inspection of all, or part of, consumer's clothing other than outer garments or footwear), authorisation needs to be made by the administrator of the authorised mental health service, only if the administrator is reasonably satisfied that it is necessary in the circumstances for carrying out an appropriate search. MHA2000 has no legislative provisions available for the authorisation or conducting of 'cavity searches' (ie. any internal physical searches).

### 12. Conducting of Searches

i) Pre-search considerations

- for the search to occur, the person being searched must be present, or given the opportunity to be present;
- a minimum of two staff is required to conduct a search. One to act in the role of 'searcher' (performs the physical touching of property and/or person), the other to act as 'observer' (observes the subject and surrounding environment during the search);
- always use same gender personnel to search (unless in emergency situations). Where only one staff member is of the same gender, this staff member needs to be in the role of 'searcher';
always seek consent of the person to be searched (although the search can be conducted even if they refuse). Question the person to ascertain if any potentially harmful items are in their possession. Reasonable force can be applied if the person refuses search, however, this needs to be proportionate to the reasons for the search and the behaviour of the subject involved;

- utilise a safe, private and dignified area for the search to occur (May be the consumer’s room, a low stimulus area away from other patients or any other space that allows for staff observation and privacy/dignity);

- full explanation provided to subject being searched (including introduction of self and designation, why search is occurring, what is to be searched, what is being searched for, what will occur to any items seized). This explanation should be communicated in a calm and confident manner without any prejudice. Communication should occur throughout the search procedure to keep the subject informed;

- all staff involved should wear gloves to minimise any cross-infection;

- scan the person and property with eyes before commencing search;

- the searcher may do any one or more of the following –
  a) pass a hand-held electronic scanning device over or around the patient or their possessions;
  b) open or inspect a thing in the patient’s possession;
  c) remove and inspect an outer garment or footwear of the patient;
  d) remove and inspect all things from the pockets of the patient’s clothing;
  e) touch the clothing worn by the patient to the extent reasonably necessary to detect things in the patient’s possession;
  f) remove and inspect any detected thing (s.357(2), Chapter10, Part 3, MHA 2000).

ii) Personal search

- if person is wearing a hat, jacket or outer garment, searcher may request person to remove these for the purpose and duration of the search. The searcher may also request the person to remove their footwear for inspection;

- to assist the search procedure, request for the person to stand and raise arms extended horizontally to the shoulder whilst searching the upper torso;

- for hand-held electronic scanning device, person to be searched should be requested to remove any metal items (eg. belts, watches). Ask person if they have any surgical implantable devices, such as defibrillator or pacemaker, and if present, indicate location and cover area with hand while scanning;

- search must be systematic, starting at the head and working down the body. Pat the person down, carefully pressing down on the person’s clothing (mindful of risk of sharps) – systematically working their way down the body, one side at a time including the front and rear of the torso area (left then right side or right then left side);

- for hand-held electronic scanning device, wave wand over the person approximately two inches from the body, using same systematic process for physical search;

- after one side of the body has been thoroughly searched, continue a systematic search of the other side of the person;

- front and rear of the person’s torso will be searched twice in the course of a thorough search;

- view palms and between fingers;

- should items be felt in pockets, the searcher should explain to the person that they are going to retrieve the item and slowly open the pocket (mindful of sharps risk) to attempt to sight the item. It is preferable when possible to turn
the pocket inside out to displace the object and, only when safe to do so, put hands into pockets and gently pull the item free;
- when searching shoes/feet, have the person lift one leg up behind them so that shoes and/or socks can be removed. Socks can be removed by placing two fingers in top of sock and pulling them downwards, turning them inside out. Shoes should be searched thoroughly;
- remove belt (if applicable), turn top of trousers/shirt over and view; turn collars/cuffs up and over to view;
- do not place fingers inside the mouth or other body cavity of the person. MHA2000 does not include provisions for cavity searches to be conducted;
- also, the searcher may, with approval of the administrator of the authorised mental health service, remove and inspect all, or part of, the patient's other clothing and anything found in the clothing. However, the administrator may give the approval only if the administrator is reasonably satisfied it is necessary in the circumstances for carrying out an appropriate search. (s.357 (3)-(4), Chapter10, Part 3, MHA2000);
- if it is necessary to conduct a search of a non-compliant person, the search can be conducted effectively while the person is restrained using Aggressive Behaviour Management (ABM) techniques. Regardless of the position of the person (standing, kneeling, or lying on the ground), a thorough search can be conducted as long as it is systematic;
- for persons being searched for the purposes of seclusion, the removal of shoes, jewellery, belts, ties, under-wired bras, etc. should be considered for those assessed as a suicidal/self-harm risk;
- all items should be moved to one side, out of the person’s reach and carefully inspected once the physical search has been completed;
- once the personal search is complete, then the person’s other possessions (bags, belongings and found items) may now be examined.

iii) Property search
- property to be searched should be at a reasonable height (table, bed) that is proportionate to the searcher;
- make every attempt not to handle property (open property to view, place property on to a surface (eg. bed) for sorting);
- property should be handled with care and items not seized should be returned to their original position once search is completed and items inspected.

iv) Environmental search
- this should be conducted:
  (i) when consumers are being admitted into a new room or consumers are being discharged/ transferred from a room;
  (ii) acute bedrooms are being converted to Psychiatric Intensive Care Units (PICU) rooms;
  (iii) for seclusion rooms (prior to and following use);
  (iv) where reasonable belief exists that potentially harmful items are in various locations (eg. illicit substances);
- environmental searches should be limited to the immediate environment, structures and furniture of the health service facility;
- this type of search should not include a search of any persons and/or their possessions unless the doctor or senior registered nurse has a reasonable belief that the person is in possession of a harmful thing;
- communicate to consumers and visitors the reasons for the environmental search being conducted;
- ensure that consumers and visitors are relocated to an appropriate area for the duration of the search that causes as little inconvenience as practicable in the circumstances;
- establish a searching team of staff and inform of plan:
  i) what is the purpose of the search;
  ii) what will you be searching for;
  iii) the type of structures to be searched;
  iv) equipment required to conduct a thorough search (eg. torches, ladders, gloves, etc.);
  v) sequential plan regarding pattern of search (eg. room by room, etc.);
  vi) plan regarding appropriate relocation of consumers and visitors for duration of search;
- a register should be established by the health service to record details (as listed above) of any environmental searches that have been conducted.

v) **Seizure and storage of a harmful thing**

Seizure of items is detailed within sections 358-359 of the MHA2000:
The searcher may seize anything found during a search that the searcher reasonably suspects is a harmful thing.

When a suspected harmful thing is seized by the searcher, the following may occur:
If the administrator of the authorised mental health service is reasonably satisfied the seized item is a harmful thing, the administrator must:
- keep it for the patient and give it to the patient on the patient's release from the health service; or
- give it to someone else if the patient is able to, and has given, agreement to do so; or
- if the administrator is satisfied someone else is entitled to possession of the harmful thing give or send it to the person; or
- if the administrator is reasonably satisfied it is of negligible value dispose of it in the way the administrator considers appropriate.

Authorised Mental Health Services should develop procedures that outline a system for the storage within the health service of any items that are seized as above. These should be localised to encompass the many variations that may occur with storage and the resources available to the health service to introduce such a system. Policies and procedures regarding storage should note:
- a safe location for the stored items that is locked and only accessible to staff;
- a location that allows easy accessibility for the consumer to view, inspect or copy (if item is a document) seized items, with the staff member, if this is considered safe and appropriate;
- a system that allows for appropriate tagging of item to ensure that the owner of seized items are easily identifiable to the consumer and service providers;
- a receipt system is required to provide a record to the consumer of any items seized. The receipt should include the name of the consumer from which the item was seized, the date of seizure, a description of the item and its condition;
- a record or log is maintained by the health service of any seized items and their return to consumers upon discharge.

In instances where the seized item is suspected of being connected with an offence against an Act, the following applies:

"However, if the administrator reasonably believes the seized thing is connected with, or is evidence of, the commission or intended commission of an offence against an Act, the administrator must give it to an authorised person under that Act" (s.359(2), Chapter 10, Part 3, MHA2000).
It is important that the Authorised Mental Health Service (AMHS) establishes good relations and liaison with local authorities, such as police, to determine the course of action required when items seized are suspected to be in connection with a crime (eg. knives, guns, illicit substances, etc.). AMHS must also develop any local protocols, memorandums of understanding (MOUs), etc. that exists with external authorities when items that are believed to be connected with, or evidence of an offence, are seized by the service. Special attention needs to be provided to the maintenance of a ‘chain of evidence’ when seizing items that are likely to be handed over to other authorities. For example:

- the circumstances for when other authorities are to be contacted;
- the handling of items that could be evidence of a crime;
- the removal of items from a potential crime scene;
- the labelling of items that may be necessary for the purposes of identification but contravene the confidentiality parameters of the Health Services Act 1991 (Section 63);
- the documentation necessary to accurately record events (if required for evidence, eg. medical records, incident reports);
- clarity regarding storage of the seized item in the interim period between confiscation and disposal/handover of the seized item.

The discovery of firearms during a search must be automatically reported to police and removed by police into their custody. Nurses are legislated under the Queensland Firearms Act (part 7.151) to report to the police any person in possession of a firearm in their care.

It is not appropriate for staff members of a health service to determine the action required of a seized item suspected to be in connection with a crime without engagement with the appropriate authorities relevant to the act the offence is against. This includes disposal of items or return to the person it was seized from.

13. Post-search (Documentation and Debrief)

Once a search is completed, the process should be comprehensively recorded within the consumer’s medical record. A record of the search must be documented if:

(a) a search is authorised under subdivision 1 (ie. authorisation by a doctor or senior registered nurse following reasonable belief that a consumer is in possession of a harmful thing);

(b) an administrator of an authorised mental health service gives an approval mentioned in section 357(3) (ie. approval of the administrator for a more detailed search - removal or inspection of all, or part of, patient’s clothing other than outer garments or footwear);

(c) a searcher seizes anything found during a search.

The documentation should include all criteria outlined in MHA2000 (s.360 (2), Chapter 10, Part 3, Div.1):

(2) Immediately after carrying out the search, the searcher must make a written record of the following details of the search:

(a) the reasons for the search;

(b) if, under subdivision 1, a doctor or nurse authorised another health practitioner to carry out the search - the name of the doctor or nurse;

(c) the name of the searcher;

(d) how the search was carried out;

(e) the results of the search;

(f) anything seized.
Following every search undertaken where consent has been withheld there should be a review that includes an advocacy service, hospital managers, or senior clinician (doctor or senior registered nurse) visiting the person who has been searched. This should be to:

(i) reinforce the reasons for the search;
(ii) explore any emotions of the consumer evoked by the search process;
(iii) ascertain if any further clarification or support can be offered to the consumer by the health service;
(iv) seek suggestions from the consumer that may improve the nature of how searches are conducted.

14. Visitor Management

AMHSs should develop a protocols that apply to visitors. The MHA2000 details provisions for the searching of visitors upon entry to a High Security Unit (s.361-371), but not into a general authorised mental health service (N.B. searching of visitors to an authorised mental health service, other than a high security unit, is not permitted under the MHA2000).

An established policy should detail:
- information and/or signage listing potentially harmful items to be made available to visitors upon entry to an authorised mental health service;
- that visitors to an authorised mental health service be asked to identify and remove potentially harmful items from their possession;
- processes for relocating/storage of identified potentially harmful items for duration of visit;
- actions required if the visitor refuses to remove potentially harmful items that have been identified.

vi) Visitors to AMHS (other than high security units)

Visitors should be provided with information to allow the opportunity to identify and remove potentially harmful items from their possessions by being made aware of items that are prohibited or restricted (as per potentially harmful items list). This should be asked of visitors upon each entry to an authorised mental health service. In circumstances where visitors are bringing the patient’s property into the unit, these possessions should follow the search procedures outlined for consumers once the property has been handed over to the consumer. Where the property is transported via plastic bags, an alternative receptacle (eg. plastic baskets, boxes, hessian or paper bags, etc.) should be supplied by the service to reduce the likelihood of plastic bags entering the facility.

If a visitor to an authorised mental health service, other than a high security unit, refuses to identify or remove potentially harmful items from their possessions, they can be only be refused entry at the discretion of the administrator of the authorised mental health service (MHA2000, Exclusion of Visitors, Chapter 10, Part 4, s.374-380), if the administrator is satisfied that the visit will adversely affect the patient’s treatment (eg. on a previous visit by a person, the patient’s mental state deteriorated). This decision by the administrator must be provided to the visitor by written notice. An appeal on this decision may be made by the visitor within 28 days of receipt of the notice.

vii) Visitors to High Secure Units

Searching of visitors and their possessions upon entry to a High Secure Unit has legislative provisions within MHA2000 (s.361-371). An authorised officer (for a high security unit means a health practitioner or security officer for the unit) may ask a visitor to submit, or submit the visitor’s possessions, to being searched. The authorised officer must provide information to the visitor such as:
(a) the officer’s power in relation to the search; and  
(b) how the search is to be carried out; and  
(c) the visitor’s rights.

In this instance, the same principles of searches apply to visitors as it does with consumers, that is:  
- visitor is present or has been given the opportunity to be present;  
- searcher is same gender as the visitor;  
- privacy and dignity is maintained throughout the search;  
- causes as little inconvenience as is practicable.

The search of a visitor to a high secure unit can be carried out by the following:  
- walking through an electronic scanner;  
- remove a stated outer garment or footwear;  
- remove everything from the pockets of the visitor’s clothing;  
- open or inspect anything in the visitor’s possession.

The authorised officer may inspect any garments removed and touch the clothing worn by the visitor to the extent that is reasonable to detect any potentially harmful items in their possession. The officer may seize any items considered harmful, or are in connection with the commission or intended commission of a crime. A receipt, outlining a description of the item and its general condition, needs to be provided to the visitor. The seized item also needs to be returned to the visitor upon their departure from the unit, unless the item is considered to be in connection with the commission or intended commission of a crime, in which the item must be handed over to the relevant authorities (eg. police).

If a visitor refuses a search within a high security unit, the authorised officer may refuse the visitor entry to the unit or, if the visitor is already within the unit, direct the visitor to immediately leave the unit. A visitor may also ask for a search to stop during a search being carried out. If this occurs, the authorised officer must stop the search and the visitor must leave the unit immediately. A visitor may also leave their possessions with the authorised officer if they do not want the officer to inspect their possessions. The possessions are then to be returned to the visitor upon their leaving the high security unit.

15. Education and Training

Health Service Districts should ensure that education and training plans are developed for all staff involved in searches within authorised mental health services. A training package/module also needs to be delivered to all clinicians involved in searches that are external to mental health services (eg. Emergency Departments, all clinical areas) but included within a gazetted description of the authorised mental health service. The preferred option for training would be through the Aggressive Behaviour Management for Healthcare Workers (ABM) as it is a program that is endorsed by the Director-General and offers a standardised structure across the state.

The training module should include:  
- the purpose of searches and its associated legislation;  
- the clinical skills and interventions required (including communication, technique, post-search interventions, documentation, visitors, seizure of items, etc.) ;  
- methods used for searches (electronic scanner, personal, property, environmental);  
- process to follow when a consumer resists a search being conducted.

Wherever possible, personal and possession searches should only be conducted by staff who have been suitably trained in searches in an approved program.
16. Audit and Evaluation

The exercise of powers of search should be audited regularly by the Mental Health Service of the Health Service District and the outcomes reported regularly to the District Health Service Quality and Safety Board or appropriate body.

The particular areas requiring auditing should include, but not restricted to:
- number of searches conducted;
- comprehensive documentation in accordance with legislation;
- information provided to consumers and visitors;
- potentially harmful items seized;
- any increase/reductions in sentinel events and clinical incidences;
- numbers of staff that education has been provided to.

17. References and further reading


Queensland Health (2003). *Redcliffe-Caboolture Health Service District: Search of Patients in a Mental Health Service Inpatient Facility (Procedure Ref No. RCHSDProc03669v1) QHEPS Queensland Health: Queensland.*


Table 1.0 Flowchart for searches of persons and possessions within authorised mental health services

1. Provide information to consumer regarding potentially harmful items

2. Obtain consent from consumer to search person or possessions

3. Reasonable belief exists about possession of harmful item

4. Authorisation of search by doctor or senior RN

5. Inform consumer of type of search to be conducted and reasons

6. Designate a private area for search to be conducted

7. Search conducted (by doctor, senior RN or health practitioner) with observer

8. Potentially harmful items found on person or possessions

9. Are potentially harmful items considered to be evidence of commission/or intended commission of crime

10. Document

11. Debrief of persons and staff

Removal of clothing required (other than outer garments or footwear)

Authorisation by AMHS administrator

Yes

No

Check possessions with consumer

Voluntarily hand over items

Go to 10. if no reasonable belief exists

Return possessions to original positions

Administrator must give to relevant authorities

Yes

No

Store and give to patient on discharge, or

Give to other person with patient consent, or

Give to other person if they are entitled to item, or

Dispose of if value of item is considered negligible
Table 2.0  Flowchart for searches of persons and possessions within high security units

1. Consumers admission or entry to High Security Unit

2. Authorisation of search by authorised officer

3. Inform consumer of type of search to be conducted and reasons

4. Designate a private area for search to be conducted

5. Search conducted by authorised officer (health practitioner or security officer)

6. Potentially harmful items found on person or possessions

Yes

7. Are potentially harmful items considered to be evidence of commission/ or intended commission of crime

No

8. Document

Yes

Administrator must give to relevant authorities

No

9. Debrief of persons and staff

Yes

store and give to patient on discharge, or

give to other person with patient consent, or

give to other person if they are entitled to item, or

dispose of if value of item is considered negligible

No

authorisation by AMHS administrator

removal of clothing required (other than outer garments or footwear)
Questions I might ask about
SEARCHES OF PERSON AND PROPERTY
WITHIN QLD AUTHORISED MENTAL HEALTH SERVICES

Consumer Information Guide

What is a search?
A search is the activity of looking thoroughly in order to locate or discover something or someone, or to try to establish the existence of. A search can occur via a variety of methods: personal (rub-down); property/possessions (search of bags, clothing); and environmental searches (room searches).

Why do searches need to be done?
Searches are done to ensure that the safety of patients, visitors and staff is maintained while also providing a safe and secure environment for patients to be treated within.

Does the law govern when a search can occur?
Yes. MHA2000 (Ch10, Part 3, s351-373) clearly outlines the legislative provisions that apply to authorised mental health services when authorising and conducting searches. It also describes the process for confiscating items and their return.

Do I need to consent to a search?
Searches need to be consented to by the patient in the first instance (i.e. the staff should request that you hand over any potentially harmful items once you have been made aware, or ask you if they can conduct a search of possessions while you are present). However, if consent is not offered by the patient, the MHA2000 states that a search can be carried out without the patients’ consent. Further to this, the legislation also notes that force (that is reasonable in the circumstances) may be applied to carry out the search.

If they search me do I have a right to privacy?
Yes. If you are being searched, particularly if clothing is being removed, you have the right for the search to be carried out in a part of the facility that ensures your privacy and that the search is conducted in a respectful and dignified manner. The search should cause as little inconvenience to you as is possible in the circumstances.

Should I be searched by someone of the same gender?
Yes. It is encouraged, wherever possible, that the patient (or visitor) being searched should be searched by someone of the same sex, especially where the removal of clothing is warranted. If this is not possible, you have the right to ask for a support person (of the same sex) to be present while you are being searched.

Can I be searched if I am a voluntary patient?
Yes. Voluntary patients can be searched under the MHA2000 as it applies to any person that is admitted to or assessed, examined, detained, or treated for a mental illness in the health service. Voluntary patients always have the right to refuse a search and leave the facility if they do not wish to be searched (although the service may also request to do an assessment if they feel that involuntary treatment may be required).
Do I have the right to be present when my belongings or room is searched?
Yes. The MHA2000 does not specify that the patient needs to be present at the time of search, but it is widely encouraged that the person being searched (i.e. possessions or room) needs to be present.

Does the facility have a policy regarding searches and how they are conducted?
The facility you are receiving treatment within should have a policy and procedure regarding the carrying out of searches. Please ask an employee of the service if you are able to access a copy of the policy and procedure.

Can staff confiscate my property?
Yes. The searcher may seize any items that they reasonably suspect is something that could be harmful to you or others.

What happens to my property if it is confiscated?
There are several processes that can occur:
- The facility may keep the item until it is returned to you on your discharge from the facility.
- It may also be given to someone else (who is not a patient) for safekeeping if you agree to this.
- If the facility is satisfied that it is entitled to someone else, then it may be given and sent to them.
- It may be disposed of if the facility believes it is of negligible value.

Does staff have the authority to contact police if they find something illegal in my possession?
Yes. If the administrator of the facility believes that the seized item is connected to the committing (or intended committing) of a crime, it can be handed over to the authorities, which includes the police. The police will determine the course of action required following receipt of the suspected items. You should be formally informed and supported by the health service in accessing legal advice under these circumstances.

What can I do about any confiscated property that is returned damaged?
As per the MHA2000, a patient or visitor may claim from the State the cost of repairing or replacing the person’s possessions if they were damaged during a search or from storage of seized items. The cost of the damaged items may be claimed through the courts. Once again, you should be formally informed and supported by the health service in accessing legal advice under these circumstances.

Can I make a complaint about how the search is conducted?
Yes. The authorised mental health service should have a process that outlines the complaints management structure. Please ensure that you seek this information from a health service employee or Consumer Consultant regarding an application to lodge a complaint. Likewise, if you wish to seek legal advice that is external to the health service, please consult with a lawyer.

Further Questions?
Please contact your Consumer Consultant or health service employees if you wish to access further information related to searches.
You are also advised to seek legal advice from a lawyer if you wish to clarify any of the legislative details involved with searches.