**Mental Health Act 2016**
Chief Psychiatrist Policy

# Declaration of Authorised Mental Health Services and Administrators

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# General

This policy provides an overview of the relevant provisions under the *Mental Health Act 2016* (MHA 2016), in relation to the declaration and gazettal of Authorised Mental Health Services (AMHSs), component facilities of AMHSs and administrators of AMHSs.

AMHS administrators are responsible for appointing authorised doctors and authorised mental health practitioners. Authorised doctors and authorised mental health practitioners can exercise significant powers and functions under the MHA 2016. The requirements for the appointment of authorised doctors and authorised mental health practitioners policy outlines these requirements in detail.

# Human Rights

Respect for human rights is fundamental to supporting the recovery of people living with mental illness. The *Human Rights Act 2019* (QLD) (HRA 2019) requires that proper consideration be given to human rights factors when making a decision and that actions and decisions are compatible with human rights (section 58, HRA 2019). A decision will be compatible with human rights where it does not limit human rights or where any limits are justifiable (section 13, HRA 2019). A limit will be justifiable where it is for a legitimate purpose and there is a rational connection between the limit on rights and the legitimate purpose. Additionally, there must be no less restrictive, reasonably available alternative and the limit on rights must be proportionate.

The MHA 2016 authorises actions and decisions that may result in limits being placed on an individual's human rights. In order to satisfy the requirements, set out by the HRA 2019, at a minimum, it will be necessary to adhere to the MHA 2016 requirements (including its principles), and document the rationale for any decisions and actions including the consideration given to human rights

# 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 MHA 2016 **must** comply with this policy.

This policy **must** be implemented in a way that is consistent with the objects and principles of the MHA 2016.

**This policy is issued under section 305 of the MHA 2016**

**Dr Thomas John**
**Chief Psychiatrist, Queensland Health**
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# Policy

## 1 Purpose

The purpose of this policy is to provide a standardised and transparent process for the declaration of AMHSs and the appointment of administrators, ensuring full compliance with the MHA 2016. Specifically, this policy aims to:

- establish clear criteria and administrative procedures for declaring, amending, or revoking (degazetting) the status of an AMHS or a component facility.
- define the requirements for the appointment of AMHS administrators, including the flexibility to appoint by office or name, and the provision for administrators with limited functions.
- ensure that any service declared as an AMHS demonstrates the necessary clinical and physical capacity to deliver high-quality mental health services and exercise statutory powers.

## 2 Gazettal

The Queensland Government Gazette advises the public of decisions made by Parliament and the various government departments. Publication in the gazette is considered a legal requirement for an announcement to be official. It includes appointments to permanent government positions, public notices, the commencement of new legislation, and other legislative policy instruments.

An AMHS, component AMHS facility and the position of AMHS administrator are statutory components of the MHA 2016 that enable the delivery of involuntary treatment and care to patients in accordance with the objects and principles of the MHA 2016. Declarations for these statutory components are published in the Gazette.

## 3 AMHS structure

An AMHS may be made up of both inpatient and community component facilities. AMHSs are health services authorised under the MHA 2016 to provide involuntary examination, assessment and treatment to persons with mental illness. AMHSs can include both public and private sector health services.

An AMHS is the only place a patient can be detained for involuntary treatment for a mental illness under the MHA 2016. Declaration as an AMHS is also required to provide

regulated treatments such as electroconvulsive therapy (ECT) and restrictive practices such as seclusion and restraint.

Declaration as an AMHS occurs when the Chief Psychiatrist, by gazette notice, declares a health service, or part of a health service, providing treatment and care to persons who have a mental illness to be an AMHS (section 329 MHA 2016). The Chief Psychiatrist may also declare (sections 329-331 MHA 2016):

- an AMHS or part of an AMHS to be an AMHS (rural and remote)
- a public sector health service or part of a public sector health service as a High Security Unit,
- a health service to be an AMHS only for the purposes of ECT or non-ablative neurosurgery.

The Chief Psychiatrist may declare by gazette notice an AMHS with conditions, enabling services with limited-service level capabilities to provide specific types of treatment and care under the MHA 2016.

The Chief Psychiatrist may also appoint, by gazette notice, a person or stated officer to be an AMHS administrator (see section 4 – Declaration of an AMHS).

## 3.1 MHAOD Inpatient facilities

Inpatient facilities are typically located within general hospitals and include specialist mental health units as well as other general areas of the hospital providing assessment, treatment and care, including emergency departments. Inpatient facilities specifically exclude the grounds and non-treatment areas of the facility (e.g. the canteen and recreational areas). Inpatient facilities also include secure mental health rehabilitation services and high security inpatient services.

Inpatient facilities must meet the criteria established under the Clinical Services Capability Framework (CSCF) for public and licensed private health facilities.

## 3.2 MHAOD Community component facilities

Community component facilities of an AMHS vary in size and scope. Community component facilities provide ambulatory level mental health assessment and treatment services, for non-admitted patients within the community. Community component facilities also enable the provision of treatment and care to involuntary patients under the MHA 2016, however, detention cannot occur in a community component of an AMHS. Community facilities must meet the criteria established under the CSCF according to the appropriate capability level.

# 4 Declaration of an AMHS

## 4.1 New AMHS

In deciding whether an AMHS meets the criteria for declaration, the Chief Psychiatrist requires that the AMHS is able to demonstrate its capability to deliver mental health assessment and treatment and exercise powers under the MHA 2016. The CSCF includes a self-assessment module for services regarding the type of service they are intending to provide. The CSCF also advises the minimum standards for the built environment of a service. Services are also asked to demonstrate compatibility with the National Safety and Quality Health Service Standards for Mental Health Services when establishing an AMHS.

Capability to deliver mental health assessment and treatment includes, but is not limited to:

- physical environment,
- staff numbers, expertise and experience,
- demonstration of safety and quality capabilities, as described in the CSCF,
- accountability to the National Safety and Quality Health Service Standards for Mental Health Services, and
- for AMHSs seeking authorisation specifically to provide ECT or non-ablative neurosurgery to patients who have given informed consent, the AMHS must be able to demonstrate that patients have access to other specialised mental health services in the AMHS if required.

## 4.2 Evidence required

When seeking declaration as an AMHS, the AMHS administrator or proposed administrator must provide evidence to the Chief Psychiatrist of capability to deliver involuntary mental health assessment and treatment and to exercise powers under the MHA 2016. The evidence provided to the Chief Psychiatrist should include the outcomes of stakeholder consultations, summaries of the service's self-assessment against the CSCF, a copy of the model of service, and relevant models of care, and any other evidence the administrator has available which may support the request to declare the facility an AMHS. The administrator making a recommendation to the Chief Psychiatrist for declaration as an AMHS must ensure the necessary steps have been satisfied for capability assessment in reference to the CSCF – Mental Health Services module. The Chief Psychiatrist may, at their discretion, request a service or facility to provide evidence of compliance with these standards. These requests must be complied with.

## 4.3 AMHS boundaries

The Chief Psychiatrist Policy – Transfers and Transport allows for involuntary patients or Classified Patients (voluntary or involuntary) to be moved within an AMHS without Chief Psychiatrist (CP) approval. The intent of the MHA 2016 is to enable operationally appropriate patient movement within an AMHS, while safeguarding patient rights and ensuring compliance with legislative requirements. However, approval must be sought for particular patients if leaving the bounds of an AMHS. Consistency in interpretation must be applied irrespective of hospital design features.

For the purposes of operationalising section 360 of the MHA 2016, the following definitions apply:

- Specialist health units: additional medical services (e.g., radiology, cardiology).
- Hospital grounds/non-treatment facilities: recreational areas, outdoor walkways, shops, and cafeterias.

Transport of involuntary patients within an AMHS using internal walkways, corridors, enclosed linkways, or other indoor connections does not require Chief Psychiatrist approval under section 360 of the MHA 2016. However, movement via external routes, outside the boundaries of an AMHS, such as outdoor paths, public roads, or vehicles is considered a temporary absence under section 221 and requires Chief Psychiatrist approval. These external public areas cannot be gazetted as part of the AMHS.

## 4.4 Forms for submission

To establish a facility as an AMHS, a recommendation is submitted on the *Application to the Chief Psychiatrist – Declaration of an authorised mental health service form* and sent to the Office of the Chief Psychiatrist via email to MHAODB-OCP@health.qld.gov.au.

The form should clearly indicate the type of AMHS the declaration is for. In all instances when establishing a new AMHS, the administrator should begin discussions with the Office of the Chief Psychiatrist as early as practicable to ensure all requirements are met and to allow sufficient time for the gazettal process. Additional requirements may apply for:

- Private health facilities: In addition to the requirements outlined above, private health facilities must also be able to demonstrate that they are appropriately licensed by the Chief Health Officer under the *Private Health Facility Act 1999*.
- AMHSs (limited conditions): The Chief Psychiatrist may place conditions on an AMHS, including limitations on the services provided or the length of inpatient stay. This enables facilities with lower service capability levels to provide initial involuntary treatment prior to transfer to an AMHS with a dedicated inpatient

mental health unit. Services with low level service capability seeking declaration as an AMHS, must provide evidence of arrangements which enable access to additional treatment and care for consumers if required (e.g. Service level agreements with other AMHSs).

- High Secure Units: High secure units are AMHSs that provide the highest level of security and containment. The MHA 2016 applies special requirements to these units to protect the rights of patients and interests of the wider community, including related to admission and discharge of patients and the security of the facility. The Chief Psychiatrist must be satisfied that the service meets the criteria for declaration as a high secure unit.

- The establishment of an AMHS requires corresponding changes to the Consumer Integrated Mental Health and Addiction (CIMHA) application. These establishment changes require the 'New Facility Request' form to be completed and submitted to the local Mental Health Information Manager for review. The final approved form is to be emailed to MHADC@health.qld.gov.au for processing. See attachment 1: for the new facility request template.

The Office of the Chief Psychiatrist will liaise with the relevant AMHS administrator to process the application. Services should allow at least 4-6 weeks from submission of the application to gazettal.

## 4.5 Declaring a new component facility of existing AMHS

Services seeking to declare a new component facility of an existing AMHS must complete the *Application to the Chief Psychiatrist – Declaration of a new component facility of an authorised mental health service* form and submit it to the Office of the Chief Psychiatrist via MHAODB-OCP@health.qld.gov.au. When applying to add a component facility, it is the responsibility of the AMHS administrator to ensure the component facility meets the criteria set out in the CSCF to meet standards for AMHS.

## 4.6 Amending an AMHS or component facility

Where an AMHS or component facility has changed name and/or location and is operating from a new address, the service must complete an *Application to the Chief Psychiatrist – Declaration of a change to an authorised mental health service* form to notify the Office of the Chief Psychiatrist of the change via MHAODB-OCP@health.qld.gov.au. The declaration enables the AMHS to demonstrate how they are continuing to meet the required criteria under the CSCF following the change of address.

## 4.7 Declaring an AMHS for electroconvulsive therapy and non-ablative neurosurgery

Services seeking declaration as an AMHS specifically for the purposes of ECT or non-ablative neurosurgery, must complete the *Application to the Chief Psychiatrist – Declaration of a new authorised mental health service* form and submit it to the Office of the Chief Psychiatrist via MHAODB-OCP@health.qld.gov.au.

Services must provide evidence of compliance with the Queensland Health *Guideline for the Administration of Electroconvulsive Therapy.* Applications will be assessed according to the criteria outlined within these guidelines.

Private health facilities must first obtain approval from the Chief Health Officer to seek declaration as an AMHS for ECT or non-ablative neurosurgery and provide evidence of appropriate licensing under the *Private Health Facility Act 1999* to the Office of the Chief Psychiatrist.

# 5 Administrators

## 5.1 Appointment

The Chief Psychiatrist may appoint, by gazette notice, a person or stated office to be the administrator of an AMHS.

The role of the AMHS administrator is critical to managing the operation of the MHA 2016, at the service delivery level this includes responsibility for all AMHS patients including both voluntary and involuntary patients.

The name and title of the person who will be the AMHS administrator may be provided on the relevant recommendation for declaration form however it is more common for only the title of the position to be included.

Changes to the position title of the AMHS administrator must be submitted to the Office of the Chief Psychiatrist via MHAODB-OCP@health.qld.gov.au.

## 5.2 Administrators with limited functions

Administrators of an AMHS declared to provide limited services will also be declared by the Chief Psychiatrist to have limited functions and powers based on services that their AMHS provides. For example, an administrator for an AMHS which has been declared to provide ECT only, will be limited to the functions and powers which relate only to ECT.

# 6 Schedule of AMHSs

The Office of the Chief Psychiatrist maintains a schedule of AMHSs, component facilities, including AMHSs declared specifically for the purposes of ECT or non-ablative neurosurgery, and administrators (Schedule). Any changes to an AMHS or component facility are updated via the *Application to the Chief Psychiatrist – Declaration of a change to an authorised mental health service* form as needed.

The schedule is published in full on the Queensland Health website: Schedule of authorised mental health services and AMHS administrators.

The AMHS administrators should conduct periodic reviews of the Schedule in order to ensure the currency of the Schedule. Amendments to AMHSs and administrators must be made in accordance with section 3 and 4 of this Policy.

## 6.1 Degazetting an AMHS or administrator

Requests to degazette an AMHS or administrator must be formally initiated by the AMHS or administrator and cannot be submitted by third parties directly to the OCP.

Services seeking to degazette an AMHS, part of an AMHS, or an administrator, must notify the Chief Psychiatrist with advice about why the AMHS is no longer required. As with all declarations and changes to the Schedule, it is important for AMHS administrators to begin discussions with the Chief Psychiatrist as soon as practicable to ensure there is appropriate time allowed for the de-gazettal process and consideration of service planning as required.

If the Chief Psychiatrist is no longer satisfied that an AMHS or administrator meets the requirements to be declared as an AMHS or administrator, the Chief Psychiatrist may degazette an AMHS, part of an AMHS, or an administrator.

# Further information

## Definitions and abbreviations

| Term | Definition |
|---|---|
| AMHS | An authorised mental health service (AMHS) is a health service, or part of a health service, declared by the Chief Psychiatrist to be an AMHS under section 329 of the MHA 2016; or an authorised mental health service (rural and remote); or a high security unit.<br>AMHSs include both public and private sector health services. While treatment and care are provided to both voluntary and involuntary patients, additional regulation applies under MHA 2016 for patients' subject to involuntary treatment and care.<br>For further information, please see Schedule of authorised mental health services and administrators. |
| AMHS administrator | The person appointed under section 332 of the MHA 2016 as the administrator of the service. |
| CIMHA | Consumer Integrated Mental Health and Addiction application is the statewide clinical information system and designated patient record for the purposes of the MHA 2016. |
| Health service | A service for maintaining, improving and restoring people's health and wellbeing, and includes a community health facility |
| HHS | Hospital and Health Service under the *Hospital and Health Boards Act 2011* |
| Patient | • An involuntary patient, or<br>• A person receiving treatment and care for a mental illness in an AMHS, other than as an involuntary patient, including a patient receiving treatment and care under and advance health directive or with the consent of a personal guardian or attorney. |
| Private health facility | A private hospital or day hospital under the *Private Health Facilities Act 1999.* |
| Public sector health service | A health service provided by a Service or the department and includes a health service declared under a regulation to be a public sector health service but does not include a health service declared under a regulation not to be a public sector health service. |
| MHA 2016 | *Mental Health Act 2016.* |

## Referenced policies and resources

### Chief Psychiatrist policies

Transfers and Transport

### *Mental Health Act 2016* forms and resources

Clinical Services Capability Framework – Fundamentals of the Framework

Clinical Services Capability Framework – Mental Health Services

Mental Health Act 2016 – Rural and Remote Services Fact Sheet

Queensland Health Guideline for the Administration of Electroconvulsive Therapy

Application to the Chief Psychiatrist – Declaration of a new authorised mental health service form

Application to the Chief Psychiatrist – Declaration of a new component facility of an authorised mental health service form

Application to the Chief Psychiatrist – Declaration of a change to an authorised mental health service form

### Legislation

*Mental Health Act 2016*

*Hospital and Health Boards Act 2011*

*Human Rights Act 2019*

*Private Health Facilities Act 1999*

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