

Transport of Patients

The *Mental Health Act 2016* provides a range of powers and safeguards which can be used by authorised persons to transport patients who are required to return to an authorised mental health service or public health service facility, or otherwise need to be transported under the Act.

Who is a patient required to return?

A 'patient required to return' means a patient for whom an administrator of an authorised mental health service (AMHS), authorised doctor, authorised mental health practitioner or a person in charge of a public sector health service facility (health service):

- approved that an authorised person may return the patient, and
- who has not been transported or come voluntarily to the service or facility.

When can a person be required to return?

A person may be required to return if he or she:

- has absconded while being lawfully detained
- is an involuntary patient and does not attend a required appointment
- becomes subject to an authority or order while they are not at an AMHS, e.g. a judicial orders they be detained in an AMHS
- has the category of their authority or order changed from community to inpatient
- are a forensic patient and leave is suspended by the chief psychiatrist
- does not return from limited community treatment or a temporary absence
- does not attend an AMHS for a psychiatric report ordered by the chief psychiatrist
- does not attend an AMHS for an examination report ordered by a Magistrate or Mental Health Review Tribunal.

How is the return of the person authorised?

An administrator of an AMHS or person in charge of a health service may:

- authorise an authorised person, other than a police officer, to return the person, or
- request a police officer to return the person.
- The authorisation or request must state:
 - the risk the person presents to himself or herself, the authorised person, police officer and others, and
 - for a request to a police officer, the reasons why the administrator or person in charge considers it necessary for a police officer to transport the person.

Before taking this action, reasonable efforts must be made to contact and encourage the person to voluntarily come to the service or facility. This does not apply if it may risk the person harming himself, herself or others.

An administrator may also disclose a photograph of the 'patient required to return' to help locate the person.

Who is an authorised person?

Authorised persons, for the purposes of transport under the Act, are:

- administrators
- health practitioners
- ambulance officers and police officers
- corrective services officers and youth detention employees (in certain circumstances), and
- other health service employees appointed by an administrator.

What powers can an authorised person exercise when transporting a person?

When transporting a person under the Act, an authorised person may:

- enter a place if the occupier consents to the entry or it is public place that is open to the public

- detain the person, with the help and force that is necessary and reasonable in the circumstances
- use mechanical restraint on an involuntary patient if it is approved by the chief psychiatrist.

Medication may also be administered to the person if authorised by a doctor.

Are there safeguards around using medication during transport?

Medication may be administered to the person only if a doctor is satisfied there is no other reasonably practicable way to protect the person or others from physical harm.

Medication must be administered by a doctor or by a registered nurse under the instruction of a doctor.

Are there safeguards around using mechanical restraint during transport?

Mechanical restraint may only be used if:

- chief psychiatrist approves its use
- there is no other reasonably practicable way to protect the person or others from physical harm
- the device used is an approved device
- the use of mechanical restraint on the person is with no more force than is necessary and reasonable in the circumstances, and
- the person is observed continuously while restrained.

Where a person needs to be transported for an examination, the carrying out of a diagnostic test, or providing treatment and care, the chief psychiatrist approval to transport the person can include the use of the mechanical restraint during the examination, test, or treatment and care, if necessary.

What is a warrant to apprehend a person for transport?

An authorised person may also apply to a magistrate for a warrant to apprehend a person.

A warrant gives an authorised person the authority to:

- enter, search and remain in a place that the authorised person reasonably believes the person is located, for as long as reasonably necessary to find the person, and
- transport the person to a stated AMHS or public sector health service facility for examination, assessment, or treatment and care.

How are interstate patients who are absent without permission transported?

The Act empowers a police officer in Queensland to apprehend a person who is absent without permission from an interstate mental health service for whom a warrant for the person's apprehension has been issued in the other State.

If the person is apprehended by a police officer, the officer may transport the person to an interstate mental health service or an AMHS.

The person may be detained in an AMHS for the period reasonably necessary to enable the administrator of the service to make arrangements for the person's return to an interstate mental health service.