

Emergency Examination Authorities: Information for Hospital and Health Services

The purpose of this information is to support Queensland Health Hospital and Health Service staff to correctly conduct Emergency Examination Authorities (EEAs). Topics summarised include:

- Initiating an EEA
- Examinations under an EEA, and under associated legislation
- Examination outcomes
- The transfer of persons while under an EEA
- Management of persons who abscond while under an EEA
- Warrants
- Searches

The key messages are:

- The EEA legislation is in effect to protect persons in the community who are demonstrating behavior that indicates that they are at risk of harm to themselves; the police; ambulance officers; healthcare professionals; and the public at large.
- Hospital and Health Service staff are encouraged to use the legislation in full as required.

To read the EEA legislation: *Chapter 4A of the Public Health Act 2005*, please see the link below:

<https://www.legislation.qld.gov.au/view/pdf/inforce/current/act-2005-048>

Introduction

This information supports the provisions of *Chapter 4A of the Public Health Act 2005* related to Emergency Examination Authorities (EEA).

The following forms have been developed to support the administration of these provisions:

- *Emergency Examination Authority*
- *Authority to Transport Person who Absconds*
- *Request for Police Assistance*
- *Revocation of Authority to Transport Person who Absconds*
- *Application for Warrant for Apprehension of Person*
- *Form of Warrant*
- *Warrant of Apprehension of Person*

To view the suite of EEA forms, please see links to the forms on the Queensland Health EEA website.

Emergency Examination Authorities

Police officers and ambulance officers may detain and transport a person to a public sector health service facility in emergency circumstances under the emergency examination authority provisions of the *Public Health Act 2005*.

This applies only where the police officer or ambulance officer reasonably believes that:

- the person's behaviour indicates the person is at immediate risk of serious harm, and
- the risk appears to be the result of major disturbance in the person's mental capacity caused by illness, disability, injury, intoxication or other reason, and

- the person appears to require urgent examination, treatment or care.

The transport of the person can occur without the person's consent, with the help and using the force that is necessary and reasonable in the circumstances.

A person will, in most cases, be brought to an emergency department of a public sector health service facility.

If the facility is not an inpatient hospital, the consent of the person in charge of that facility is required for the person to be transported to the facility. This is intended to address circumstances in rural and remote communities where a service may not be able to undertake the necessary examination, treatment and care of the person.

Services should put in place local arrangements with police and ambulance, in advance, to identify appropriate facilities and persons who can consent to the admission of a person under an EEA.

On arrival at the public sector health service facility, the police officer or ambulance officer must immediately make an EEA for the person by completing Part A of the *Emergency Examination Authority* form.

The person may be detained while the EEA is being made.

The officer must give the completed form to a health service employee at the facility.

A health service employee must then complete Part B of the *Emergency Examination Authority* form, acknowledging receipt of the authority.

The police or ambulance officer may retain a copy of Parts A and B of the form.

Extension of detention under emergency examination authorities

The person may be detained under an EEA at a public sector health service facility for 6 hours for an examination.

This may be extended up to a total of 12 hours by a doctor or health practitioner if this is necessary to carry out or finish the examination.

An extension is effected by a doctor or health practitioner completing and signing Section 8 of the *Emergency Examination Authority* form, setting out the beginning and end times for the extension of the authority.

Examinations

A person under an EEA may be examined without their consent, using the force and assistance that is necessary and reasonable in the circumstances.

As a result of the examination, the person may be:

- admitted as an inpatient
- discharged following the examination and any associated treatment and care.

It is also possible that a doctor or Authorised Mental Health Practitioner may be called upon to examine the person to determine whether there is an underlying mental illness.

In this instance, a doctor or Authorised Mental Health Practitioner may make a Recommendation for Assessment under the *Mental Health Act 2016*.

If a Recommendation for Assessment is made, a copy of the *Emergency Examination Authority* form must be attached to the Recommendation for Assessment so the forms can be uploaded together.

The examining doctor or health practitioner must record the outcome of the examination in Section 9 of the *Emergency Examination Authority* form.

To read the *Mental Health Act 2016*, please see the link below:
<https://www.legislation.qld.gov.au/view/pdf/asmade/act-2016-005>

If an examination did not occur, the reasons for this must be recorded in Section 9 of the form.

Once the examination is completed, or the examination period expires, detention under the EEA ceases.

What to do should the EEA examination period (up to 12 hours) expire prior to the examination being completed

Should the EEA examination period expire prior to the examination being completed, and the person who was detained under an EEA is still demonstrating “at risk” behavior, if appropriate, the

- *Mental Health Act 2016*, or,
- *Guardianship and Administration Act 2000*, section 63

may be applied to ensure the person receives the examination and/or treatment they require.

The *Mental Health Act 2016* should be applied if the person requiring an examination is suspected of having an underlying mental illness and meets the criteria for a Recommendation for Assessment to be made.

In situations where it is not appropriate to make a Recommendation for Assessment under the *Mental Health Act 2016*, the *Guardianship and Administration Act 2000*, section 63 permits Hospital and Health Services to provide:

“Urgent health care

Health care, other than special health care, of an adult may be carried out without consent if the adult’s health provider reasonably considers—

(a) the adult has impaired capacity for the health matter concerned; and

(b) either—

(i) the health care should be carried out urgently to meet imminent risk to the adult’s life or health; or

(ii) the health care should be carried out urgently to prevent significant pain or distress to the adult and it is not reasonably practicable to get consent from a person who may give it under this Act or the *Powers of Attorney Act 1998*”.

For more information about the *Guardianship and Administration Act 2000*, please see the following link:

<https://www.legislation.qld.gov.au/view/pdf/inforce/2018-12-03/act-2000-008>

Discharge

If the person is being discharged, the health service must offer assistance to the person to return to a place reasonably requested by the person, for example, the person’s home.

Transfer to another public sector health service facility

If necessary, the person may be transferred by an Authorised Person (police officer, ambulance officer, authorised health service employee or security officer) to another public sector health service facility for examination.

To effect a transfer, section 6 of the *Emergency Examination Authority* form is to be completed. The form is to be taken to the other public sector health service facility by the Authorised Person.

The transport of the person by a police officer or ambulance officer can occur without the person’s consent, with the help and using the force that is necessary and reasonable in the circumstances.

The period of the detention under the EEA is not extended by a transfer.

Absconding Persons

If a person absconds while being detained under an EEA (including while the EEA is being made by a police officer or ambulance officer at the facility), the least restrictive option appropriate to the level of risk should be exercised to return the person.

Reasonable efforts should be made to contact the person, or a relative or friend of the person, to locate the person and persuade him or her to return to complete the examination. However, this is not required if there is a risk that the person may harm himself, herself or others.

If the person is unable to be located, or does not return voluntarily, or there are concerns about risk of harm to the person or others an *Authority to Transport Person who Absconds* form must be initiated.

The person in charge of the facility (or delegate) may choose which category of Authorised Person is most appropriate to return a person who has absconded while under an EEA: a police officer; or; an Authorised Person other than a police officer (ambulance officer, authorised health service employee or security officer).

In either case, the person in charge of the facility (or delegate) completes the *Authority to Transport Person who Absconds* form, checks the appropriate “authorisation” box on the form and follows the corresponding pathway to effect the return.

Return by an Authorised Person who is not a Police Officer

A health service employee or ambulance officer who has been authorised to act under an *Authority to Transport Person who Absconds* form may return the person who has absconded independently, or, request police assistance to transport a person who has absconded.

Requesting police assistance allows the health service employee/ambulance officer and police officer/s to work together to return a person who has absconded.

When requesting police assistance, the *Request for Police Assistance* form must be completed. This form must include a statement outlining why it is necessary for police to assist with the transport. Generally, police should be involved in transport only where their assistance is required for the management of serious risk to the individual or others, or

where the person is detained by police (e.g. criminal charges may be, or, have been laid).

Return by police acting alone

The person in charge of the facility (or delegate) may request a police officer to transport a person who has absconded while under an EEA to a public sector health service facility.

Circumstances in which it may be appropriate for police to transport a person include:

- if the person's whereabouts are unknown, or,
- it is unsafe for the person to be returned by an Authorised Person other than a police officer

If requesting police to return the person who has absconded, the *Authority to Transport Person who Absconds* form must include:

- a statement outlining why it is necessary for police to transport the person
- the name of the facility where the person is to be transported
- a summary of risk issues relevant to the person and others, and
- any actions taken to locate the person.

Authorised Persons' powers

While acting to transport a person who has absconded, a police officer or ambulance officer may act with the help, and using the force, that is necessary and reasonable in the circumstances. This includes the ability to detain the person if required.

If authorised to transport a person following an absconding event, the Authorised Person or police may take the person to the facility stated in the *Authority to Transport Person who Absconds* form.

If it is not reasonable or practicable to transport the person to the stated public sector health service facility, the person may be transported to another public sector health service facility.

Recommencement of examination period

Where a person who has absconded is returned to a public sector health service facility, the examination period (6 hours with the ability to extend up to 12 hours) re-commences.

Return of absconded person flowchart

Please see the flowchart published on the Queensland Health EEA internet site regarding the steps that must be followed to effect return of a person who has absconded while under an EEA.

Ending of Absconding Event

The authority to transport process ends when the person is returned to a public sector health service facility.

An *Authority to Transport Person who Absconds* form and a *Request for Police Assistance* form are in force for 3 days only.

A *Revocation of Authority to Transport Person who Absconds* form is used to end the authority to return a person to a public sector health service facility.

Steps to follow when an *Authority to Transport Person who Absconds* form has been issued to police:

- if the person returned without the direct involvement of

police, a health service employee should telephone the local police and the relevant local Police Communications Centre to notify them of the person's return, and

- send a copy of the *Revocation of Authority to Transport Person who Absconds* form (preferably by email) to the Police Communications Centre and to the Warrant Bureau.

A copy of the *Revocation of Authority to Transport Person who Absconds* form must also be sent to the authorised person/s who were authorised to transport the person.

Warrants

An Authorised Person may apply to a magistrate for a warrant of apprehension for a person who has absconded from a public sector health facility.

A warrant is necessary to enter premises without consent, such as a person's home.

A warrant may be sought by using the *Application for Warrant for Apprehension* form.

In urgent circumstances, or in other special circumstances such as the Authorised Person's remote location, an application may be made by fax, email, radio, videoconferencing or another form of electronic communication.

If a warrant is made by a magistrate but there is no reasonably practicable way of immediately giving the warrant to the Authorised Person, the Authorised Person may complete a *Form of Warrant* form, including the information told to the Authorised Person by the magistrate.

A warrant is in force for 7 days after it is made.

If intending to enter a place under a warrant to apprehend a person, the Authorised Person must:

- identify himself or herself to the occupier
- give a copy of the warrant to the occupier
- advise that the warrant permits the Authorised Person to enter and search for the person named in the warrant, and
- give the occupier an opportunity to allow immediate entry without using force.

However, if the Authorised Person believes immediate entry is required to ensure the actioning of the warrant, he or she can proceed without the above steps.

Searches

A person detained for an examination under an EEA may be searched without their consent if a doctor or health practitioner believes the person may be in possession of a harmful thing, such as a dangerous drug, alcohol, medication, sharps, or provocative or offensive documents.

For detailed information about searches under the EEA legislation, please see the *Information regarding Searches of Persons under Emergency Examination Authorities* document published on the Queensland Health EEA website.