

Submission regarding the

Mental Health Act (MHA) 1996

This feedback structure has been provided to assist you in your submission to the Review of the MHA. Using this format will assist the Review in the gathering of information.

Your Details

Name of person completing submission: DR STEPHEN LANCIFORD

Name of Service (if applicable): ROYAL FLYING DOCTOR SERVICE

Address: 3 EAGLE DRIVE JANDAKOT AIRPORT WESTERN OPERATIONS

Contact Number: 08-94176300

Do you wish to be placed on our mailing list to receive any information that the Review may distribute (eg updates, Draft Report, etc.). Yes No

email: medical@rfdswestops.com.au

Confidentiality

We are concerned about your confidentiality, so please indicate which of the following applies to this submission:

This submission is to remain strictly confidential and is **not** to be shared/distributed to anyone outside of the Review.

This submission may be shared/distributed to any other party, **if** my personal details are removed and kept confidential.

This submission is public information and **may** be freely shared/distributed to anyone interested.

Other, please specify:

Signature: Stephen Lanciford

Date: 2/9/02

Closing Date

The closing date for submissions is **Friday 29 November 2002**. Please send your submission to:

Ms Sylvia Meier
Executive Officer
Review of the MHA and CLMIDA
11th Floor, Dumas House
2 Havelock St
WEST PERTH 6005
or
Fax: (08) 9222 5450
or

Or to ReviewofMHA@health.wa.gov.au



This Review is about the operations and effectiveness of the existing Act and not about writing a new Act. Therefore you do not need to re-write sections of the Act, this will occur after the Review has been completed and is the responsibility of the Parliamentary Counsel's Office.

Please address those areas that are of concern and how you think the Act may be altered. The following is not a comprehensive list of all aspects of the Act. You do not need to comment on all areas. Please use the space available or add pages to include other areas of importance.

NB. Copies of the Act are available from the State Publisher or at www.mhrbwa.org.au/publications/pdfs/The_Mental_Health_Act1996.pdf.

AREAS OF THE ACT

Definitions (including meaning of mental illness) (s.3)

No comment

Objects of the Act (s.5)

No comment

Administrative provisions with regard to the Minister for Health (s.7)

No comment

Office of the Chief Psychiatrist (ss. 8-16) (eg Responsibilities, Functions, Powers of Inspection, etc.)

No comment

Mental Health Practitioners (s.19, 58 & Regulation 10)

No comment

Authorised Mental Health Practitioners (s.20 Regulation 4,5,6)

Arrangements seem adequate.

Authorised Hospitals (s.21, Regulation 7)

Problem not with the Act but with the lack of authorized hospitals in rural areas, especially north-west.

Involuntary Patients (Part 3)

Becoming an involuntary patient (s.26)

Conditions are adequate.

Referral for Examination (ss.29, 31, 32, 33 & Consequential provisions Part 2)

Act operates successfully in respect to these sections.

Referral in certain circumstances (s.30)

No comment.

Police assistance (ss.34, 35, 41, 42)

This is a significant area of confusion and dissent. The Police Service dispute the need to transport a patient "as soon as practicable" and often refer to having up to 72 hrs to do so which is not clinically acceptable. (See attached).

Detention for examination and choices (ss 36,37, 40)

The operation of section 36.1(b) means that some patients cannot be received into rural authorised hospitals after Friday afternoon and over the weekend → resulting in unnecessary transport to another hospital.

No comment.

Involuntary status (ss. 43, 44, 45, 48, 49, 50, 51)

No comment

Transfer (s. 46)

No problems.

Declining to accept (s. 47)

Provision should be made that admission cannot be declined from all metropolitan hospitals → someone must take the patient within an acceptable time frame.

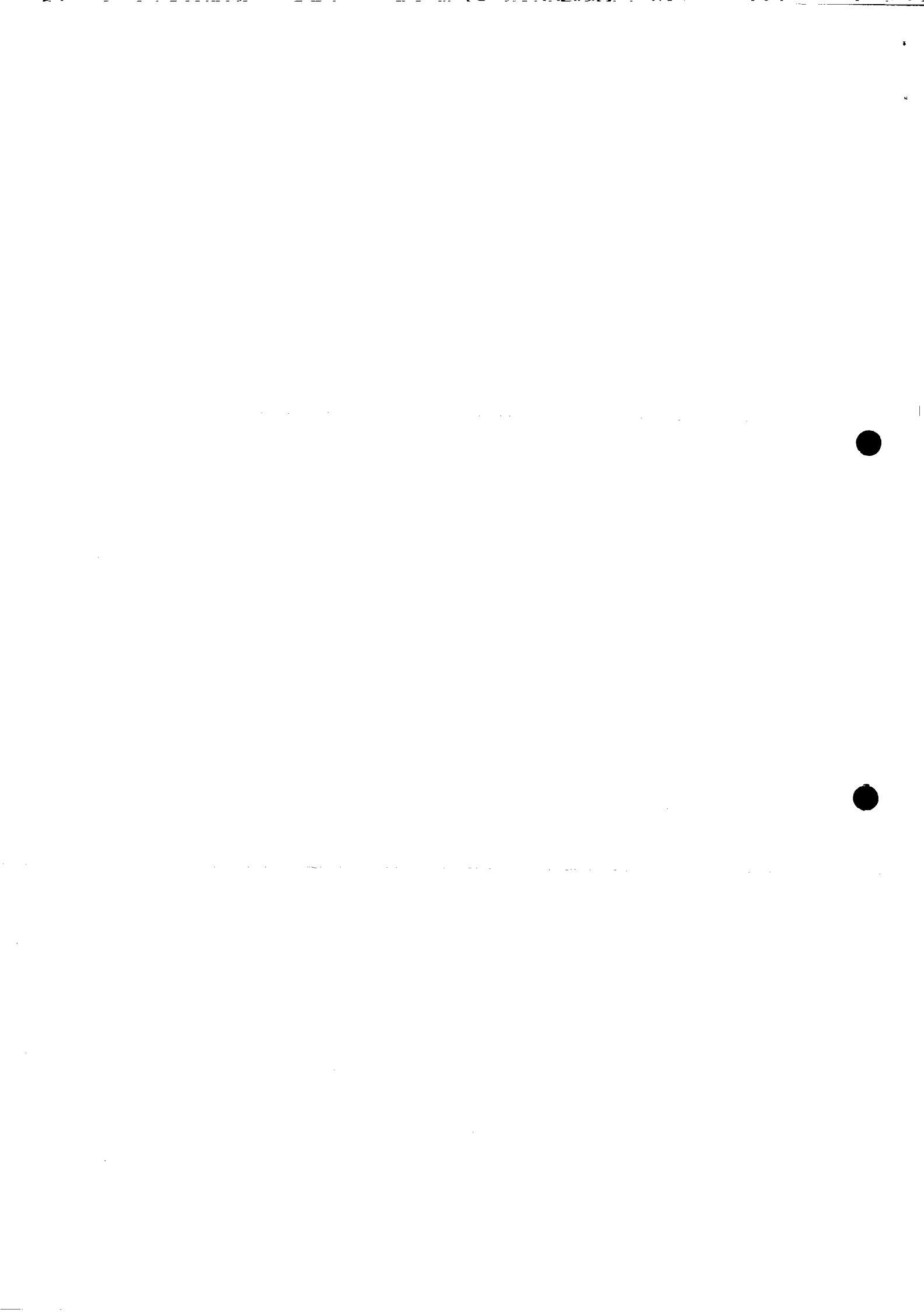
Releasing a detained patient (ss.52, 54, 55, 56)

No comment.

Attachment to Page 3.

Police Assistance (ss. 34, 35, 41, 42) (Continued)

- ② With regard to long distance medical transport, the Police clearly have a responsibility for transport of the patient but it is left to the health service (particularly RFDs) to arrange and pay for transport costs.
- ③ Police are reticent to provide an escorting Police Officer in a time frame suitable for RFDs aircraft flights (aircraft ready but Police not) which causes unnecessary delays.
- ④ It is not clear to Police senior that their financial responsibilities include return travel, accommodation etc. for any police officers accompanying patients on a transport order.



Absence without leave (s.57, 58 & Regulation 10)

No comment

Leave of absence (ss 59-63)

No comment

Community Treatment Orders (CTOs) (Part 3, Division 3)

Making a CTO (ss. 65, 66, 67, 69)

No comment

Terms of a CTO (ss. 68, 73, 74, 75, 77)

No comment

Extension of a CTO (s. 76)

No comment

Variation of a CTO (s. 79)

No comment

Revocation of a CTO & police assistance (s. 70, 71, 72, 78)

No comment

Breach of a CTO (ss. 80, 81)

No comment

Order to attend (ss. 82-84)

No comment

Treatment of Patients (Part 5)

Definitions (s. 92, 108)

No comment

Informed consent (ss. 95-98)

OK

Prohibited treatments (s. 99)

No comment

Psychosurgery (ss100- 103)

No comment

Electroconvulsive Therapy (ECT- ss104-107)

No comment

Consent not required (s. 109)

Acceptable.

Medical Treatment (s.110)

No comment

Second opinions (ss111, 112, 164)

No comment.

Emergency Psychiatric Treatment (ss. 113-115)

Consideration should be given in the definition of S 113.1 to include "prevent the person from doing serious damage to army property" as in section 26(1)(b) iii.

Physical harm should include those forms described Seclusion (ss. 116-120 & Regulations 11-13) in section 26(2).

No comment

Mechanical bodily restraint (ss. 121- 124 & Regulations 14-16)

Mechanical bodily restraint is a common requirement for transport of acute cases. Current sections of the Act are workable.

Section 123 (4) and 124 are not entirely clear as to who reports use of restraint when authorized by a medical practitioner and not by "the treating psychiatrist".

Protection of Patient Rights (part 7)

Explanation of rights (ss. 156-159 & Regulation 18)

NO comment.

Access to records (ss. 160, 161)

Subject now to provisions of the Privacy Amendment Act (2000) for treatment outside of a state government hospital (eg. C/P surgery, ambulance).

Other rights- Ill-treatment/ Interview/ personal possessions/ letters/ phone calls and visitors (ss. 162-171)

NO comment

(Increase penalties for ill treatment or neglect?)

Capacity to vote (ss. 201- 203)

NO comment.

Police Powers (ss. 195-200)

Appear adequate.

Mental Health Review Board (Part 6 & schedule 1 & 2) (eg Registrar (ss22-25 and Regulations 8, 9) Establishment, Constitution, Procedure, Reviews, Appeals, Provisions concerning Proceedings)

No comments

Council of Official Visitors (Part 9 & schedule 3 & Regulation 20) (eg Administrative and Procedural Provisions, Powers and Functions)

No comments.

Interstate Movements (Part 4)

There would be significant cost savings in transport (eg. RFDS) if patients could be transferred from the Kimberley (and Albany) to Darwin for treatment.

Miscellaneous (Part 10)

Restrictions on authority to practice (ss. 193, 194)

Section 194 could do with some thought in regard to circumstances in remote areas where situation could arise in respect of a colleague (assistant) of the practitioner.

Records and information (ss. 204, 205, 212, & Regulations 17, 19)

Adequate.

Confidentiality (s. 206)

Adequate.

Protection from liability (s. 213)

OK.

Inquiries (ss. 207-210)

OK.

Other areas of concern:

Act works pretty well overall.

Main issues are its application to transport and roles and responsibilities of Police Service.