GUIDELINES FOR THE ROLE AND FUNCTION OF DIRECTORS OF AREA MENTAL HEALTH SERVICES

1 April 2000

Disclaimer

While every care has been taken in the preparation of the information in this document, users are reminded that the Ministry of Health cannot accept any legal liability for any errors or omissions or damages resulting from reliance on the information contained in this document.

It is important readers note that these guidelines are not intended as a substitute for informed legal opinion. Any concerns that individuals may have should be discussed with appropriate legal advisors.

Published with the permission of the Director-General of Health, pursuant to section 130(a) of the Mental Health (Compulsory Assessment and Treatment) Act 1992.
Published in April 2000 by the Ministry of Health, PO Box 5013, Wellington, New Zealand.

This document is available on the Ministry of Health's web site:
http://www.moh.govt.nz

ISBN: 0-478-23923-8 (Booklet)
ISBN: 0-478-23924-6 (Internet)

FOREWORD

Section 130(a) of the Mental Health (Compulsory Assessment and Treatment) Act 1992 (the Act) states that the Director-General of Health may from time to time issue guidelines for the purposes of the Act. The following guidelines are intended to provide Hospital and Health Services and Directors of Area Mental Health Services (DAMHSs) with information and guidance on the role of the Director of Area Mental Health Services.

The need for guidelines to the Act was identified by the Law Commission's report on *Community Safety*: *Mental Health and Criminal Justice Issues* (1994) and the *Inquiry under Section 47 of the Health and Disability Services Act 1993 in Respect of Certain Mental Health Services 1996* (the Mason Report; Ministry of Health 1996). Both reports stated that workable guidelines were required to address different understandings of the Act.

On 6 October 1999 Parliament passed the Mental Health (Compulsory Assessment and Treatment) Amendment Act 1999 (the 1999 Amendment), which came into force on 1 April 2000. These guidelines reflect the amendments made to the Act in 1999, and supersede the guidelines issued in January 1999.

For general guidance on the use of the Act, please refer to the *Guidelines to the Mental Health (Compulsory Assessment and Treatment) Act 1992* (Ministry of Health 2000). For other more specific information regarding the use of urgent sedation under sections 110 and 110A of the Act, the role of District Inspectors, or the roles and functions of Duly Authorised Officers (DAOs), the following Ministry of Health guidelines should be consulted:

- *Guidelines for Medical Practitioners Using Sections 110 and 110A of the Mental Health (Compulsory Assessment and Treatment) Act 1992* (April 2000)

- *Guidelines for District Inspectors Appointed under the Mental Health (Compulsory Assessment and Treatment) Act 1992* (April 2000)

- *Guidelines for the Role and Function of Duly Authorised Officers under the Mental Health (Compulsory Assessment and Treatment) Act 1992* (April 2000)

These guidelines are effective from 1 April 2000. On 1 July 2000, after a period of three months, the Ministry of Health will seek written submissions on errors, omissions, and points requiring clarification in these guidelines. The submission period will be for six weeks therefore submissions will close on 14 August 2000. Should you wish to make written submissions before 1 July please do so.

Submissions should be sent to:

Dr Janice Wilson
Director of Mental Health
Ministry of Health
PO Box 5013

WELLINGTON

The guidelines will be revised accordingly and will be distributed by the end of December 2000.

Karen O Poutasi (Dr)
Director-General of Health

CONTENTS

1. LEGISLATIVE REQUIREMENTS OF THE MENTAL HEALTH (COMPULSORY ASSESSMENT AND TREATMENT) ACT 1992 THAT CONCERN DIRECTORS OF AREA MENTAL HEALTH SERVICES

1.1 Assigning a responsible clinician to each patient (section 7)

Under section 7 of the Act, a DAMHS is responsible for approving suitable clinicians to act as responsible clinicians, and for ensuring that each patient is assigned a responsible clinician. The 1999 Amendment has inserted a new section (7A) which ensures that the responsible clinician consults with the family/whānau of the proposed patient or patient when he or she exercises any powers under the Act. Consultation must occur unless the responsible clinician has reasonable grounds for deciding that it is not reasonably practicable, or that it is not in the best interests of the proposed patient or patient.

Before a DAMHS approves a psychiatrist or other registered health professional to act as a responsible clinician, he or she should take into consideration the skills and knowledge of a responsible clinician to consult with family/whānau.

1.2 Applications for assessment (section 8, section 45)

The process for applying for assessment has been clarified in sections 8, 8A and 8B of the Act. The DAMHS has administrative responsibility for the process of assessment under the Act. These amendments will need to be incorporated into the office procedure of the DAMHS (ie, section 8 forms will need to be updated).

1.3 Documents relating to an application for a compulsory treatment order (section 14A(3))

The DAMHS is required to make a copy of all documents received in relation to an application for a compulsory treatment order. DAMHSs must also ensure that a copy of those documents are given to the patient. The DAMHS is also required to ensure that a patient receives the following:

- a notice requiring the patient to attend an examination by the Judge under section 18 of the Act

- a notice requiring the patient to attend the Court hearing of the application for the compulsory treatment order under section 19 of the Act.

1.4 Notice of admissions (section 42)

Section 42 of the Act now requires the DAMHS to ensure that the person in charge of a hospital to which a special patient or restricted patient is admitted, sends a copy of the required patient information to the Director of Mental Health within 14 days of the

patient's admission. The person in charge of a hospital is defined as the chief executive of the hospital or service. However, section 99B of the Act allows the chief executive to delegate his or her powers to a person who is suitably qualified to exercise them. The delegation must be in writing and remains in place until it is revoked in writing.

1.5 Notice of events concerning any patient (section 43)

Section 43 of the Act now requires the DAMHS to ensure that the person in charge of a hospital to which a special patient or restricted patient is admitted notifies the Director of Mental Health, within 14 days, of any event relating to the patient's absence from hospital.

1.6 Delegation of powers (section 92A and section 92B)

These new sections allow a DAMHS to delegate his or her duties and functions, when on approved leave or when ill, to a person who is:

- suitably qualified to exercise the powers of a DAMHS
- approved for the purpose by the Director or Deputy Director of Mental Health.

The delegation must be made in writing and must be signed by the DAMHS who makes it. The DAMHS or his or her delegate must also advise the Director or Deputy Director of Mental Health when they intend to be on leave or when they are ill.

1.7 Obligation to report every three months (section 92(4))

Every DAMHS must provide a written report to the Director of Mental Health detailing any use of his or her powers, duties, or functions under the Act during the previous three months.

1.8 Receiving records of the circumstances in which medical practitioners administer urgent sedation (section 110A(3)(b))

A medical practitioner who issues the section 8B medical certificate may administer sedation in an emergency, in accordance with *Guidelines for Prescribing Psychotropic Drugs* (Ministry of Health 1996) and *Guidelines for Medical Practitioners Using Sections 110 and 110A of the Mental Health (Compulsory Assessment and Treatment) Act 1992* (April 2000) issued by the Director-General of Health (under section 130 of the Act).

A medical practitioner who administers a sedative drug in any emergency must record the circumstances in which the drug was administered and (as soon as possible after its administration) give a copy of that record to the DAMHS. It is expected that the

DAMHS will review these records and discuss the use of sedation with the medical practitioner if he or she has any concerns. The DAMHS should also ensure that a copy of that record is attached to the patient's file, and that the responsible clinician has been alerted.

1.9 A Judge or Registrar may issue warrants to apprehend proposed patients or patients (section 113A)

New section 113A of the Act sets out additional circumstances in which a Judge or Registrar may issue a warrant for the apprehension of a patient or proposed patient who refuses to attend a place for treatment or is absent without leave from that place. A new warrant form has been drafted to reflect the following changes relating to these additional circumstances:

- where a proposed patient or patient is required, but refuses to attend a place for:
  - an assessment examination under section 9 of the Act
  - an assessment to which a notice is given under sections 11 or 13 of the Act
  - an examination to which a notice is given under section 14A(3)(b) of the Act
  - a hearing to which a notice is given under section 14A(3)(c) of the Act
  - a review to which a notice is given under section 76(1A) of the Act
- where a patient subject to a community treatment order is refusing to attend at a place for treatment in accordance with that order
- where a patient subject to an inpatient order is absent from the hospital:
  - without leave; *or*
  - when the patient's leave of absence has expired or has been cancelled.

The application for a warrant must be made by the DAMHS. The section does not confer a general power to seek a warrant for the police to apprehend any person not subject to the Act who is not co-operating with mental health services or hospital authorities.

1.10 Use of force (section 122B)

This section authorises a person who is exercising a specified power in an emergency to use such force as is reasonably necessary. A record of the exact circumstances involving the use of force must be completed. This record must be forwarded to the DAMHS as soon as practicable. It is expected that the DAMHS will review the record and discuss the use of force with the people involved if he or she has any concerns. A copy of the record should be attached to the patient's file.

1.11 Registers and records (section 129)

Section 129 of the Act requires the DAMHS to ensure that the person in charge of the hospital or service keeps registers and records pertaining to patients detained under the Act.

2. OTHER RELEVANT SECTIONS OF THE MENTAL HEALTH (COMPULSORY ASSESSMENT AND TREATMENT) ACT 1992

The following duties for which the DAMHS has statutory responsibility have not been changed by the 1999 Amendment:

- arrangement of assessment interviews (section 9(3)(b)). Note that the DAMHS has the sole responsibility for appointing suitable personnel to carry out assessments.

- receipt of the certificate of preliminary assessment and associated documents (section 10)

- receipt of the certificate of final assessment and associated documents (section 12)

- removal of special patients back to a penal institution (section 47)

- transfer of special patients (section 49)

- leave of special patients (section 50)

- direction of temporary return to hospital of special patients (section 51)

- referral of patients who present special difficulties to the Director of Mental Health for application for restricted patient status (section 54)

- receipt of complaint of breach of rights from District Inspectors (DIs) and rectification of such complaints (section 75)

- designation and authorisation of Duly Authorised Officers (DAOs), including ensuring training and competency (section 93) (see *Guidelines for the Role and Function of Duly Authorised Officers under the Mental Health (Compulsory Assessment and Treatment) Act 1992* (April 2000))

- issue of documents of authority, and generally directing duties of DAOs (section 93)

- maintenance of telephone number lists for assistance or information (section 93)

- application for warrants to apprehend patient or proposed patient (section 112)

- non-obstruction of DI inspections (section 117)

- approval of vetting of incoming mail (section 123)
- transfer of patients (section 127).

3. APPOINTMENT OF DIRECTORS OF AREA MENTAL HEALTH SERVICES

A DAMHS is a person who is designated by the Director-General of Health by a notice published in the *New Zealand Gazette* (section 92). The DAMHS is usually nominated by Hospital and Health Services (HHSs) and formally appointed by the Director-General of Health. The DAMHS should preferably be a psychiatrist, but if not, should have experience as a senior clinician. The DAMHS should not be the same person who is the HHS service manager or clinical director.

3.1 Flexibility of appointments (section 92(1)(a))

The Director-General of Health has the flexibility to appoint as many DAMHSs as the Director-General of Health considers necessary for the effective administration of the Act.

3.2 Definition of area (section 92(1)(b))

The Director-General of Health has the power to determine the terms and conditions on which each DAMHS is appointed, including the area for which each DAMHS is responsible. The area could potentially be a particular HHS catchment area or a particular service. Alternatively, it could be described in geographical terms. The *Gazette* notice will include the area for which the appointee is responsible.

3.3 Suspension and removal from office (section 92(3))

From 1 April 2000, the DAMHS may, at any time, be suspended or removed from office if any of the following are proved to the satisfaction of the Director-General of Health:

- failure to perform adequately the duties of the office
- neglect of duty
- misconduct
- inability to perform the duties of the office.

4. THE DIRECTOR-GENERAL OF HEALTH'S PROTOCOL FOR APPOINTMENT

4.1 Prerequisite qualifications

Nominees for appointment as a DAMHS must be a registered health professional (preferably a psychiatrist) who has undergone training in, and is competent in, the assessment, treatment, and care of persons with mental disorder. The Act is silent as to the nominee's employment, however currently all DAMHSs are employees of an HHS. Nomination does not mean automatic appointment. HHSs need to be aware that if nominees do not meet the expectations for the DAMHS role they will not be appointed.

4.2 DAMHS appointment criteria

The DAMHS appointment criteria can be viewed as comprising three broad categories of requirements:

- knowledge
- skills
- attitude.

Any process for assessing the potential of mental health professionals to be appointed as a DAMHS must ensure that there are adequate means to measure their suitability against these requirements.

4.2.1 Knowledge

The DAMHS must have following knowledge:

- a sound understanding of the development, implementation and practice of effective approaches to the assessment and treatment of people with mental illness

- demonstrated familiarity with relevant practice guidelines

- a sound understanding of issues of cultural difference, an awareness of the principles of the Treaty of Waitangi and the implications of partnership as well as sensitivity to cultural identity and personal beliefs

- sound knowledge of a Māori concept of mental health and the cultural factors that impact on understanding of, for example, hallucinations and death

- a sound understanding of mental health consumer issues

- a sound understanding of the role of family/whānau in the assessment and treatment of people with mental illness

- a sound knowledge of the role and the key competencies required by DAOs

- a sound understanding of the concept of mental disorder in terms of the Act

- a demonstrated knowledge about the general provision of special patients and restricted patients

- a sound knowledge of all relevant sections of the Act
  - the intent and meaning of sections and the specific paperwork and records required by each part of the Act
  - limitations to powers
  - access to supports
  - interactions with other roles designated in the Act (especially DIs, DAOs, other DAHMSs, responsible clinicians and the Director of Mental Health)
  - interfaces with the legislation listed below.

The DAMHS must have an understanding of the sections of the following legislation that impact on DAMHS tasks:

Privacy Act 1993

Health Information Privacy Code 1994

Protection of Personal and Property Rights Act 1988

- section 18: Powers and duties of welfare guardians

New Zealand Bill of Rights Act 1990

- section 3: Application
- section 4: Other enactments not affected
- section 5: Justified limitations
- section 6: Interpretation consistent with Bill of Rights preferred
- section 9: Right not to be subjected to torture or cruel treatment
- section 11: Right to refuse to undergo medical treatment
- section 13: Freedom of thought, conscience and religion
- section 14: Freedom of expression
- section 18: Freedom of movement
- section 21: Unreasonable search and seizure
- section 22: Liberty of the person
- section 23: Rights of persons arrested or detained
- section 27: Right to justice

Criminal Justice Act 1985

- section 75: Sentence of preventive detention
- section 80: Minimum periods of imprisonment

- section 95: Release of offenders detained in psychiatric institutions while subject to sentence of imprisonment
- Part VII: Mentally disordered persons
- section 140: Court may prohibit publication of reports
- section 161: Mentally disordered persons

Children, Young Persons and their Families Act 1989

- section 2: Interpretation

Crimes Act 1961

- section 23: Insanity
- section 26: Execution of sentence, process or warrant
- section 31: Arrest by constable pursuant to statutory process
- section 34: Persons assisting constable or officer in arrest
- section 39: Force used in executing process or in arrest
- section 40: Preventing escape or rescue
- section 41: Preventing suicide or certain offences
- section 62: Excess use of force
- section 120: Escape from lawful custody
- section 155: Duty of persons doing dangerous acts

Guardianship Act 1968

- section 9: Wards of the Court
- section 25: Consents to operations

Health and Disability Commissioner Act 1994

Code of Health and Disability Services Consumers' Rights 1996

Hospitals Act 1957

- Part V: Private hospitals

Land Transport Act 1998

- section 19: Licenses of certain persons subject the Mental Health (Compulsory Assessment and Treatment) Act 1992 to be suspended

Police Act 1958

- section 53: Failing to give assistance

Memorandum of Understanding between the New Zealand Police and the Ministry of Health, 23/3/2000 and the local agreements that flow from this (see pages 18 – 21).

This list is not intended to be exhaustive, but to provide an indication for those designing training programmes etc. Legal opinions should always be sought when interpretations are required.

4.2.2 Skills

The DAMHS must have the following skills:

- an ability to conduct a mental status examination
- excellent interpersonal and relationship skills
- clinical skills in:
  - conflict resolution
  - engagement
  - problem solving
- demonstrated familiarity with skills required to undertake a review of patients (eg, giving second opinions to the Review Tribunals)
- demonstrated familiarity with skills required to review processes when examining failure of service provision
- an ability to negotiate and discuss management plans with responsible clinicians
- good written and oral presentation skills
- the ability to liaise with community agencies and work with them in a co-operative manner, including iwi, marae committees, Pacific communities and church groups
- the ability to deal appropriately with members of the public
- an ability to investigate complaints
- the ability to educate other agencies and the public on the Act
- the ability to use supervision, peer reviews and de-briefing procedures for both clinical matters and in the use of the Act
- the initiative to seek specific and specialist advise when appropriate.

4.2.3 Attitude

The following attitudes should be evident in a DAMHS:

- a strong client focus
- sensitivity to other people, their experience and their context
- a focus on empowering people
- cultural awareness and cultural safety
- a professionally based attitude to mental health care
- sensitivity when working with advocates and interpreters, as well as enabling people to gain access to such supports (see *Let's Talk: Guidelines for Government Agencies Hiring Interpreters* (Department of Internal Affairs 1995)
- respect for privacy and confidentiality
- respect for the intent of the Act.

4.3 Additional factors

The following additional factors may also be taken into account at the discretion of the Director-General of Health:

- length of time residing in New Zealand
- potential conflicts of interest
- a minimum of 12 months' experience in a mental health service in a New Zealand HHS (this requirement has been increased from six months)
- demonstrated leadership within a New Zealand HHS (this is a new requirement)
- demonstrated confidence from seniors and peers to carry out the role of DAMHS
- demonstrated ability to develop key relationships
- demonstrated experience as a responsible clinician
- references from at least two mental health specialists, preferably one being a DAMHS.

4.4 Performance review of appointees

All newly appointed DAMHSs will be subject to a review of their performance after 12 months in the role. This review will involve the Director of Mental Health seeking feedback on the performance of the particular DAMHS from the following:

- other DAMHSs
- mental health consumers
- HHS management
- other office holders under the Act (eg, DIs)
- any other relevant persons.

5. CLINICAL MANAGEMENT RESPONSIBILITIES

The DAMHS also has a number of mental health service clinical management responsibilities, arising from their statutory responsibilities. Since the Act relates to patients both in and out of hospital, it is clear that the role of the DAMHS must extend likewise.

The role includes ensuring there is psychiatric evaluation, review of that evaluation and subsequent decisions regarding the patient's need for compulsory treatment, and ensuring discharge if appropriate. In many cases the DAMHS will also act as a responsible clinician, in which case another responsible clinician should be appointed to peer review the clinical work of the DAMHS.

The Act requires receipt of various documentation by the DAMHS. The purpose of this is to assist the DAMHS in monitoring the quality of clinical decision-making and its recording, and to rectify complaints regarding breaches of rights. In practice some of the 'routine' checking of paperwork will be delegated to other staff, but the responsibility rests with the DAMHS.

The Act gives considerable direction regarding the responsibility of the DAMHS for the appointment and operation of DAOs. Though less explicit, it is reasonable to assume that the Act also envisages a line of accountability from the responsible clinician to the DAMHS given the need of the responsible clinician to provide clinical reports to the DAMHS. The responsible clinician also needs to be authorised by the DAMHS to vet mail.

One of the important rights stated in the Act is the right to medical treatment and other care relevant to the patient's condition. It has been previously noted that the DAMHS is expected to rectify infringements of rights as reported by the District Inspector. The DAMHS must be expected to have influence on the delivery of care beyond the purely medical.

6. AUTHORITY OF THE DAMHS

In order to achieve the responsibilities listed above, it is imperative that the DAMHS has certain authorities. The DAMHS must have the authority to 'ensure adequate deployment of DAOs, sufficient to meet the needs of a particular region'. He or she must also have the authority to identify the number and availability of responsible clinicians, as well as other practitioners and services.

The DAMHS is responsible for ensuring that sufficient resources are available for DAOs and responsible clinicians to carry out their jobs. Furthermore, the DAMHS has the authority to direct the care given to patients in a designated region. The DAMHS also needs to have a role in planning and purchasing of resources for mental health services, and needs to be able to bring issues of lack of access to other organisations (other than HHSs) to the attention of those purchasing mental health services.

The DAMHS may, at times, need to veto clinical decisions taken in respect of patients and proposed patients. The Act is not specific about this, but it is an important part of ensuring quality and compliance with the Act.

7. KEY RELATIONSHIPS

To obtain and retain his or her authority, the DAMHS needs to have relationships of defined influence with:

- purchasers of health care and disability support for his or her designated area
- providers of health care and disability support for his or her designated area.

The DAMHS should have a defined relationship of accountability to the Director of Mental Health and thence to the Director-General of Health. The line of accountability from the DAMHS to the Director of Mental Health has been clarified by the new requirement for the DAMHS to report to the Director of Mental Health every three months (section 92(4)).

8. EMPLOYMENT AND SUPPORT

To perform the above functions it is necessary to have the employment support of a credible 'health care agency'. In the current pattern of health care delivery, HHSs are the most suitable agency. The Act gives the Director-General of Health the authority to designate the areas of responsibility of the DAMHS and the manner in which the duties are to be performed. This manner of purchase coupled with the accountability and reporting lines will allow maximum support in the function of the DAMHS with minimal risk of undue influence by any particular purchaser or provider.

MEMORANDUM OF UNDERSTANDING

23/3/2000

BETWEEN THE NEW ZEALAND POLICE
(hereinafter referred to as "the Police")

AND THE MINISTRY OF HEALTH
(hereinafter referred to as "the Ministry")

RECITAL

IN recognising that the Police and the Ministry have separate missions and standards,

AND acknowledging that each party brings to its respective tasks valuable expertise and resources,

AND acknowledging full co-operation between both parties at all levels as essential to ensure the co-ordinated, effective and efficient delivery of services to meet the needs of individuals who may require compulsory assessment and treatment under the Mental Health (Compulsory Assessment and Treatment Act) 1992:

BOTH PARTIES DECLARE AND AGREE TO THE FOLLOWING

1 INTRODUCTION

1.1 The following matters are agreed in principle between the Police and the Ministry of Health to give guidance to police staff and health professionals administering the provisions of the Mental Health (Compulsory Assessment and Treatment) Act, 1992, (hereinafter referred to as ‘the Act’).

1.2 This memorandum should form the basis of local agreements made at police region and district level with Mental Health Services.

1.3 A spirit of co-operation should prevail in all dealings under the Act between police and health professionals.

1.4 People being dealt with under the Act are **PATIENTS** or proposed patients and shall be treated with humanity and respect for the inherent dignity of the person. The responsibility for the provision of services

under the Act to mentally disordered persons rests primarily with health services. It is further recognised that such persons, while being dealt with purely under the Act, have not necessarily broken any rule of law.

1.5 Police and health professionals must retain a flexible approach to any incident being dealt with under the Act and must be prepared at all times to change their course of action.

1.6 Nothing in this Memorandum limits or prevents the Police from carrying out any duties or exercising any powers under other enactments.

2 RESPONSIBILITIES

2.1 The Duly Authorised Officer is the official in charge at any incident that requires the invoking of the Act and a combined Police/Mental Health Services response. In the absence of a Duly Authorised Officer if sections 110, 110A, 110B, or 110C are being invoked the Registered Medical Practitioner is the official in charge.

2.2 The police may be called upon to assist the health professionals but will continually review the appropriateness of the action requested of them. The police will advise the health professionals if the actions requested of them are outside their powers or immediate ability.

2.3 Duly Authorised Officer should only request police assistance when the particular powers and specific expertise of the police are required.

3 TRANSPORTATION OF PATIENTS

3.1 Duly Authorised Officers have the responsibility for arranging for the transportation of patients, proposed patients, and patients absent without leave. Mental Health Services are responsible for ensuring that Duly Authorised Officers are adequately resourced to carry out this duty.

3.2 When the particular powers and specific expertise of the police are required to assist with transportation, the decision as to the type of vehicle to be used should be made by the Duly Authorised Officer or Registered Medical Practitioner in charge in consultation with attending police.

3.3 Matters to be taken into account in making that decision include:

- the clinical condition of the patient or proposed patient
- whether urgent sedation has been administered to the proposed patient or patient
- the potential or actual violence of the patient or proposed patient

- the types of vehicle available
- the need for restraint and the type of restraint required
- the personnel available
- the distance to be travelled

3.4 Where police have been called to assist a Duly Authorised Officer or Registered Medical Practitioner, the duly authorised officer **OR** a suitable health professional will at all times PHYSICALLY accompany and monitor the patient or proposed patient. The definition of 'suitable health professional' should be negotiated at a local level and be contained in local memoranda of understanding.

4 USE OF FORCE

4.1 Section 122B of the Act allows the use of force in certain circumstances. Anyone who is exercising a power under the Act should be certain that these circumstances apply before using force.

4.2 Any taking, retaking or detention by force must only be in circumstances where it is likely the patient or proposed patient will be a danger to him or herself, or to others or will be likely to cause serious property damage.

4.3 Before using force the wishes of the patient or proposed patient and their caregivers should be sought wherever practicably possible and careful consideration should be given to their views. Every effort must be made to reduce the risk of violence before the patient is transported.

4.4 If it is necessary to use force to take and/or detain a patient or proposed patient the Duly Authorised Officer or Registered Medical Practitioner shall give a clear request to police to do so.

4.5 If it is necessary to use force to gain entry to property in an emergency the Duly Authorised Officer or Registered Medical Practitioner shall give a clear request to police to do so. Police officers must be certain of the section of the Act they are acting under that authorises the entry. Where it is reasonably practicable to get a warrant, the Police must comply with section 41(7). In determining whether it is reasonably practicable to apply for a warrant, Police should consult with the Duly Authorised Officer or Registered Medical Practitioner. The appropriate Mental Health Service should usually assume responsibility for making good any damage caused by such action.

5 CHARGING FOR SERVICES

5.1 The Police and the respective Mental Health Services will not normally charge each other for the provision of assistance under the Act.

5.2 Consideration may be given to charging for pre-planned use of Police services by Hospitals and Health Services where it has been contractually agreed to at a local level or in instances of excessive and unreasonable demands on police time.

6 AMENDMENT VARIATION

6.1 The parties agree that these understandings may be amended or varied by mutual agreement between partners. Such variations should be raised and addressed through the National Manager of Operations for the Police and the Deputy Director of Mental Health for the Ministry of Health.

Signed by: ……..

On behalf of the New Zealand Police

Signed by: ……

On behalf of the Ministry of Health