

CORPORATE OFFICE

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20 May 2022

9(2)(a)



RE Official Information Act request CDHB 10837 (b)

I refer to your letter dated 12 April 2022 and received in our office on 29 April 2022 requesting the following information under the Official Information Act from Canterbury DHB. This is a follow up request to our earlier response CDHB 10837. Specifically:

- 1. A copy of all policies, guidelines and ethics that CDHB has set regarding Mental Health assessments and treatment under the Mental Health (Compulsory Assessment and Treatment) Act 1992.**

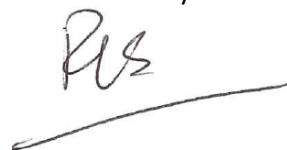
Please refer to **Appendix 1** (attached) for the following documents:

- Affidavit for warrants
- Application for warrant to apprehend
- Application for warrant to enter premises
- Change of responsible clinician
- Consent form section 59 MHA
- Contact details for patients under MHA
- Duly Authorised Officer (DAO) log
- Discharge from assessment form
- Driver licence consumer information
- Intention to detain section 111
- Section 16 applications
- Transfer of care form
- Use of force
- Voluntary 29 admission form
- Warrant process

I trust that this satisfies your interest in this matter.

Please note that this response, or an edited version of this response, may be published on the Canterbury DHB website after your receipt of this response.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'Rls', followed by a long, sweeping horizontal line that extends to the right.

Ralph La Salle
Senior Manager, OIAs
Canterbury DHB & West Coast DHB

**An Affidavit in Support of an Application for a Warrant to Enter Premises and a
Warrant to Apprehend a Person, Patient or Proposed Patient Under Section 113A
of the Mental Health (Compulsory Assessment and Treatment) Act 1992**

In the District Court held at _____

Date: _____

District Court No: _____

I (DAO name) _____

Signature: _____

Of (address) _____

Designation: _____

Full name of the patient/proposed patient: _____

Address: _____

Date of birth: _____

DAO (or Psychiatrist's letter) to give detailed reasons why the person needs to be assessed, (must meet both limbs of MHA ie. Mentally disordered and a danger to self or others), why access to a Medical Practitioner has not been granted by the person/any evidence of non-cooperation, any mental health history and history of non-compliance with other orders, all treatments required, any medications prescribed, outline consequences of person not being assessed/receiving treatment

NB: Use extra sheet if necessary (last page)

I therefore believe it is necessary for this Court to issue a warrant to enable members of the Police to;

assist in the apprehension of and/or

enter premises of _____

Person, Proposed Patient, Patient (name) _____

To enable;

an assessment to be undertaken. or

treatment to be administered. or

a review to be conducted. or

the return of the patient to Hospital.

Statements in this Affidavit are true and correct to the best of my knowledge and belief, from the information provided on the file and from my personal knowledge.

SWORN / AFFIRMED Signature _____

Date: _____

Sworn at Christchurch this _____ day of _____

Before me: _____

RELEASED UNDER THE OFFICIAL INFORMATION ACT

Application for a Warrant to Apprehend
Section 113A Mental Health (Compulsory Assessment and Treatment) Act 1992

I _____ am employed as a Duly Authorised Officer by
the Mental Health Service of the Canterbury District Health Board and I have the
Director of Area Mental Health Services delegated authority to apply for a warrant to
apprehend patient/proposed patient (name) _____ as
required under the Mental Health Act, Section 113A;

Section 38, 4 (b)

Or Section 38, 4 (d)

Or Section 40, 2

(Delete 2 options)

Sub-sections (3) (4) authorise this application and issue of warrant under Section 41 (2).

Police assistance is required to facilitate the safe apprehension of this person.

Signature: _____ Date: _____

Address: _____

Application for a Warrant to Enter Premises

Section 113A Mental Health (Compulsory Assessment and Treatment) Act 1992

I _____ am employed as a Duly Authorised Officer by
the Mental Health Service of the Canterbury District Health Board and I have the
Director of Area Mental Health Services delegated authority to apply for a warrant to
enter premises for patient/proposed patient (name) _____
as required under the Mental Health Act, Section 113A;

Section 38, 4 (b)

Or Section 38, 4 (d)

Or Section 40, 2

(Delete 2 options)

Sub-sections (6) (7) authorise this application and issue of warrant under Section 41 (2).

Police assistance is required to enter premises of this person.

Signature: _____ Date: _____

Address: _____

Change of Responsible Clinician

Mental Health (Compulsory Assessment and Treatment) Act 1992

Name:

Date of birth:

NHI:

Inpatient/Community team currently under:

Inpatient/Community team transferring to:

Your Responsible Clinician has changed

From _____ to _____
Referring Responsible Clinician *Accepting Responsible Clinician*

With effect from _____ to _____
If temporary change please indicate end date.

This change is because (Please indicate one)

- ☐ Your care has been transferred to a different team within the Canterbury DHB
- ☐ Your care has been transferred to a different Responsible Clinician within your current team
- ☐ Your previous clinician is on leave and will take over your care again when she/he returns
- ☐ Your responsible clinician has left the service.

Referring Responsible Clinician

Print name: _____

Signature: _____

Date: _____

Accepting Responsible Clinician

Print Name: _____

Signature: _____

Date: _____

Acting with the delegated responsibility of the Director of Area Mental Health Services

Copy to

☐ Patient

☐ DAMHS office

☐ Clinical record

Section 59 Consent to Treatment for patients subject to a Compulsory Treatment Order**Mental Health (Compulsory Assessment and Treatment) Act 1992**

Name:

NHI:

Responsible Clinician:

Clinician has explained the following to me. I have ticked all boxes to indicate I understand:

- ☐ I have the right to be informed about treatment.
- ☐ I may withdraw my consent at any time.
- ☐ the use of medication with expected benefits.
- ☐ The expected and likely side effects of my treatment have been discussed with me by my Responsible Clinician.
- ☐ If I refuse to consent, a 2nd opinion may be requested from an approved psychiatrist.

I hereby consent to accepting treatment as directed.

Patient signature:

Date:

Witness signature (CDHB staff):

Name & designation:

Capacity: If consent is given this section MUST be completed.**I confirm that _____ has capacity to consent to his/her treatment**

Signature:

Name & designation:

A patient has capacity to consent if they are able to:

- understand the information relevant to the decision*
- retain that information*
- use or weigh that information as part of the process of making the decision*

I do not consent to accepting treatment as directed

Patient signature:

Date:

Witness signature (CDHB staff):

Name & designation:

Please make two copies, give one to the patient and place one on the clinical file. Send the original to DAMHS office.

Referral for second opinion under section 59(2)(b)

Patient name:

Date of birth:

Address:

The patient is currently receiving treatment under the following section of the Mental Health (Compulsory Assessment and Treatment) Act 1992:

The patient has not given consent in writing for the following treatment directed by the responsible clinician:

The patient has had the treatment explained in accordance with section 67:

Yes

No

The responsible clinician considers the above treatment to be in the interests of the patient and refers the patient for the consideration of a second opinion under section 59(2)(b) of the Mental Health Act 1992.

Name and contact details of psychiatrist appointed for the purposes of s 59(2)(b) by the Mental Health Review Tribunal:

Responsible clinician:

Address:

Telephone number:

Signature:

<i>Signature of responsible clinician</i>	<i>Date</i>

- A copy of this notice has been sent to the Director of Area Mental Health Services.

Contact details for principal caregiver, welfare guardian & general practitioner

Mental Health (Compulsory Assessment & Treatment) Act 1992

Name:	
NHI:	
Date of birth:	

Please ensure full address details are provided for principal caregiver, welfare guardian and general practitioner prior to sending this form to the DAMHS office.

The principal caregiver or welfare guardian (if PPPR Act currently active) must be recorded for patients subject to the Mental Health (Compulsory Assessment and treatment) Act 1992

Principal Caregiver

'the friend of the patient or the member of the patient's family group or whanau who is most evidently and directly concerned with the oversight of the patient's care and welfare.'

Name:	
Full address:	
Phone	
Relationship to patient	
(i.e. mother, father, wife, husband, partner, other)	

Or

Welfare guardian

This is a title under the PPPR Act. The Court may make an order appointing a welfare guardian for a person in relation to aspects of personal care and welfare that the court specifies in the order.

Please do not enter details if PPPR act is not currently active.

Name:	
Full address:	
Phone	

General Practitioner

Name:	
Full address:	
Phone	

Other Contact

Name:

Address:

Phone

Relationship to patient

(i.e. mother, father, wife, husband, partner, other)

Other Contact

Name:

Address:

Phone

Relationship to patient

(i.e. mother, father, wife, husband, partner, other)

Other Contact

Name:

Address:

Phone

Relationship to patient

(i.e. mother, father, wife, husband, partner, other)

Canterbury District Health Board Te Poari Hauora o Waitaha Specialist Mental Health Service		Psychiatric Service Mental Health Act DAO Process Log	
Name person: D.O.B: Cultural Identity: Address: Phone:		Attending DAO's: (Print Name & sign) Phone: Date:	

Consultation with, Significant others (whanau etc.)	Relationship:	Address:	Phone:	Time:

Time Process Started:	Time Process Completed:	Total time:
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MHA Action (Cross out sections that are N/A)			
Section:	Number:	Time actioned	Section completed/actioned by:
Powers of the Nurse to detain	111		
Application	8A		
Medical practitioner's certificate	8B		
Notice to Attend	9		
Independent third person for sec 9	9.2d		
Certificate of preliminary assessment	10		
Notice for 5 day Assessment & Treatment	11		
Cancellation of Leave	31(4)		
Notice directing change to Inpatient status	29(3)(a)		
Notice directing reassessment	29(3)(b)		
Did Mental Health Act Proceed? Yes <input type="checkbox"/> No <input type="checkbox"/>		Admitted To:	

Police Assistance:			
Warrant to Apprehend	113A(4)		
Warrant to Enter Premises	113A(7)		
Use of Force	122B		
Was police assistance used? Yes <input type="checkbox"/> No <input type="checkbox"/>		Was force used? Yes <input type="checkbox"/> No <input type="checkbox"/>	
If police assistance used and warrants were not sought, please give rationale and supporting evidence. If force used (s122B) provide details of date, time & place force used, why force required, type of force applied, by whom & any injury? If sec 9.2d was not complied with, please give rationale why and supporting evidence.			
Details: (complete incident form as appropriate)			

Transport	Y/N	Escort	Y/N
Police		Police	
CDHB Vehicle		DAO	
Ambulance		Nurse	
Private		Other	

Discharge from assessment for person subject to section 15(1) or section 15(2)

Mental Health (Compulsory Assessment & Treatment) Act 1992

Please note this form may not be used for any other status under the MHA and must be completed in conjunction with the MHA Clinical Report

To:

Patients name:**
Date of birth:**
NHI:**
Inpatient ward:
Outpatient team:

The above named patient is no longer mentally disordered and is fit to be released from the following section of the Mental Health Act

Your status under Assessment is currently:

Section **	15(1) <input type="checkbox"/>
	15(2) <input type="checkbox"/>

(Section of Mental Health Act which the patient was receiving assessment &/or treatment)

Name of Responsible Clinician: _____

Please print

Signature: _____

Date: _____

*** All sections must be completed please*

Driver Licence information sheet

Specialist Mental Health Service

For safety on the roads, all drivers must be medically fit to drive. The Land Transport Act 1998 requires doctors to assess mental health consumers, to consider if their mental condition prevents them from driving safely. The process depends on the class of licence held and your legal status.

If you are under compulsory treatment, your driver licence may need to be surrendered. If you drive while your licence is suspended this may affect your vehicle insurance, you could be charged with an offence or the Police could impound your vehicle for 28 days.

You are receiving voluntary inpatient or outpatient treatment or are subject to section 29 CTO

It will be assumed you are fit to drive. If there is anything to indicate there are difficulties:

- your psychiatrist will assess your medical fitness to drive
- if you are assessed as fit to drive, nothing will happen

You are receiving compulsory inpatient treatment

If you are in hospital and are under a Mental Health Act section 30 Compulsory Inpatient Treatment Order or are a Special Patient under the Criminal Procedures (Mentally Impaired Person) Act :

- your driver licence is suspended automatically by law
- your licence must be surrendered to your Responsible Clinician. While you are an inpatient in hospital, the licence will be held by the Director of Area Mental Health Services office.

You are discharged from hospital on leave, or you are no longer under a section 30 Compulsory Inpatient Treatment Order or a Special Patient

- Your psychiatrist will assess your medical fitness to drive.
- **Private vehicle license:** If you are assessed as fit to drive, your licence will be returned to you. If the licence is held by the Land Transport Safety Authority (LTSA) please contact them directly for its return.
- If you are assessed as unfit to drive, and your private vehicle licence is held by the Office of the Director of Area Mental Health Services, it will be forwarded to the LTSA. Later you can ask a medical practitioner to reassess your fitness to drive, or you can apply to the LTSA to review this decision. Then, if you are considered fit to drive, the LTSA will return your driver licence.
- **Commercial vehicle license:** More stringent laws apply if you hold a commercial licence. Your licence will be returned to the LTSA. When you are assessed as medically fit to drive a commercial vehicle, a medical certificate will be completed by your Responsible Clinician. This will be forwarded to the LTSA and your license will be reissued.
- **Both private and commercial vehicle licences:** If you are assessed as fit to drive a private class but unfit to drive commercial classes, your licence will be returned to the LTSA. The LTSA will reissue a licence for the approved classes.

Notice of intention to detain under section 111

Mental Health (Compulsory Assessment & Treatment) Act 1992

To:

Patients name:
Date of birth:
NHI:
Date:
Time: a.m. p.m.

- I believe there are reasonable grounds to detain you under **Section 111** of the Mental Health (Compulsory Assessment & Treatment) Act 1992 in order for a Registered Medical Practitioner to examine you under **Section 8(3)**.
- You may be detained for a period of time **up to 6 hours** in order for the necessary arrangements to be made.
- If you attempt to leave I have the authority to hold and detain you. This may include physical restraint, placement in a seclusion room or asking the Police to assist in holding you.
- If the doctor has not examined you within 6 hours you will be notified that you are free to leave.

Name of Registered Nurse: _____

Please print

Signature: _____

Medical Practitioner notified: Dr _____

Please print

Time: _____ am/pm by: telephone ☐ in person ☐ facsimile ☐ by email ☐

Original given to patient ☐

Copy to Clinical File ☐

Copy to DAMHS Office ☐

Application for Review of Condition of Patient (Section 16)

Mental Health (Compulsory Assessment & Treatment) Act 1992

To:	Name of Court:	Christchurch
	Patients Name:	
	Date of birth:	
	NHI:	
	of	
	Current Legal status:	

The above named patient is undergoing assessment and treatment under the Mental Health (Compulsory Assessment & Treatment) Act 1992.

I wish to apply to the Court for a review of the patient's condition by a Judge.

This is the first ☐ / Subsequent ☐ application to the Court during the periods of assessment & treatment.

I am entitled to make this Application as I am:

- ☐ The patient
- ☐ The welfare guardian of the patient
- ☐ The applicant who applied for assessment
- ☐ The patient's principal caregiver
- ☐ The medical practitioner who usually attended the patient immediately before assessment
- ☐ A district inspector

Applicant's name: _____ *Please print*

Signature: _____ **Date:** _____

Withdrawal Section 16 Application

I wish to withdraw my above application

Applicant's signature: _____ **Date:** _____

Transfer of Care

Mental Health (Compulsory Assessment & Treatment) Act 1992

Patient being transferred

*Full name**Date of birth**NHI:**Patient's usual residential address*

Current Legal Status

Section of Mental Health Act Patient currently under

Next review & date

Type of MHA review due & date due

Type of transfer

Permanent ☐*Temporary* ☐*Transfer date:**Date of return (if temporary):*

Referring team to complete:

Name of referring team & District Health Board transferring to

Being transferred from

DHB transferred to

Referring Responsible Clinician's name

Responsible Clinician's signature

Of:

Business address and telephone number

Date:

Accepting team to complete:

DHB accepted by

Accepting Responsible Clinician's name

Responsible Clinician's signature

of:

Business address and telephone number

Date:

Use of force (Section 122b)

Mental Health (Compulsory Assessment and Treatment) Act 1992

CONFIDENTIAL

Patients name:	NHI:
Date of birth:	Date:
MHA status:	Time: a.m. p.m.
Police involvement: yes / no (circle one)	
Use of force: (type)	
Location:	

Why force was required

Description of force applied

Injuries to person(s):

--

Staff member completing report:

--

Signature:

--

Copy sent to DAMHS office: Date: _____

‡Applicable sections of the Mental Health Act:

The use of such force as is necessary in an emergency to either retake or detain a person, proposed patient or patient, or enter premises, or treat a patient.

- Section 32(1) Any patient subject to an Inpatient CTO, who is AWOL from the hospital, may be retaken by any person and returned to the hospital.
- Section 38(4)(d) A DAO may take a person who is refusing assessment to a medical practitioner under Section 8B.
- Section 40(2) A DAO may take all reasonable steps to take a proposed patient or patient, if that person is refusing, to an assessment examination or hearing under Sections 9, 11, 13, 14A(3)(b), 14A(3)(c) or 76(1)(A). The DAO may take a patient under a CTO to the place specified in the order for treatment, if the patient is refusing. The DAO may take a patient under an Inpatient Order, who is AWOL or when that patient's leave has expired or been cancelled, back to the hospital.
- Section 41(4) A police officer may, for the purposes of Section 38(4)(d), take a person to a medical examination and detain the person for up to 6 hours to allow the examination to occur.
- Section 41(5) A police officer, having entered premises under Section 41(2), may take a person to an examination or hearing as required under Section 40(2), and detain that person for up to 6 hours to allow the examination or hearing to occur.
- Section 41(6) A police officer, having entered premises under Section 41(2), may return the patient to hospital as required under Section 40(2).
- Section 50(4) A special patient on leave, if that leave has been cancelled, may be returned to the hospital by a DAO, police or person to whom the care of that patient while on leave has been entrusted.
- Section 51(3) If a DAMHS directs that a special patient on leave be admitted or re-admitted to a hospital, then a DAO, police officer or patient's caregiver can take that patient to that hospital.
- Section 53 Any special patient who escapes or fails to return from leave may be taken back to hospital (or another as directed) by the Director, DAMHS, DAO, police officer or patient's caregiver.
- Section 109(1) If a person is found in public place acting in a manner consistent with Mental Disorder, the police may take that person to an appropriate place and arrange for a medical examination.
- Section 109(4) Following apprehension and medical assessment under Section 109, after a Section 8B medical certificate is issued, Police may detain or transport a person for an assessment examination.
- Section 110C The police may enter premises, detain, transport or assist with administering a sedative drug, where a medical practitioner needs to have the person assessed urgently, and has provided a Section 8B medical certificate.
- Section 111 When a person, already admitted informally to a hospital, needs urgent assessment for a Section 8B medical certificate, then a nurse may detain or transport the person for the assessment to occur.
- Section 41(2) A police officer, if requested by a DAO for assistance under Sections 38(4)(d) or 40(2), may enter the premises where the person is, and must identify him or herself if in plainclothes.
- Section 41(3) A police officer may detain a person for up to 6 hours where that person is, for the purpose of a medical examination under Section 38(4)(b): the medical practitioner attends the person at their address.
- Section 113 The hospital has authority to detain a person so that a Section 9 assessment may occur, and to hold that person in hospital in accordance with notices under Sections 11 and 13 or an Inpatient Order.
- Section 113A The DAMHS or the Police may apply for, and the Police action, a warrant to retake and transport a [proposed] patient for assessment or treatment.

Voluntary admission of a person subject to section 29 Compulsory Community Treatment Order

Mental Health (Compulsory Assessment and Treatment) Act 1992

To:

Patients name:
Date of birth:
NHI:

You have agreed to become a Voluntary Inpatient for a period of no more than 14 Days

Your rights:

You have agreed to come into hospital as a voluntary patient, it is important that you have the same rights as any other voluntary patient on this ward. One of these rights is that you may leave at your request at any time. However it is important also to bear in mind that you have come into hospital because you agreed with your doctor and nurse that hospital was necessary. For that reason, if you then feel differently about being in hospital or circumstances have changed, it is important to discuss this with your primary nurse. If you do leave hospital it is also very important that arrangements have been properly made for your continuing care after being in hospital.

It is important that you are aware that your Sec 29 Compulsory Community Treatment Order remains in place during this admission.

Consent/acceptance:

Patient/Welfare Guardian's name: _____

Signature: _____ Date: _____

Clinicians name: _____

Clinicians designation: _____

Clinicians signature: _____ Date: _____

Warrant process (All documents submitted to the court must be single sided only)

NB: If urgent assessment is required and warrants are not practicable proceed without them and document why.

Use family, police, etc. to talk patient round if possible, but if unsuccessful and situation is non-urgent:-

- **Apply for warrants x 2.**
- **Phone a District Court Registrar** to alert him/her to the need for warrants.
 - When calling from a landline: 0800 COURTS or 0800 268787
 - When calling from a cell phone: 04 802 3930
- **Warrants are required for:-**
 - entry to premises where person is
 - apprehension of proposed patient or patient.
- **Fill in the required forms and lodge with the Court Registrar asap.**

SMHS related documents:-

1. Application for Warrant to Apprehend Patient or Proposed Patient under sec 113A MHA.
2. Application for Warrant to Enter premises under sec 113A MHA.
3. Affidavit for warrants

MOH forms

1. [Warrant Form 9 Schedule r9 \(i\) = entry to premises.](#)
2. [Warrant Form 10 Schedule r9 \(ii\) = apprehension of patient.](#)

NB: warrant forms must be filled in by DAO for Judge to sign.

Applications request police assistance and document:-

- who the DAO is.
- authorise DAO to act on DAMHS behalf.
- who the patient is.
- section of MHA applicable.

Affidavit is an oath which is written by the DAO and sworn in front of the court registrar to be the truth. It includes:-

- who the DAO is.
- who the person is.
- diagnosis and summary of patient's problems. (This part may be in the form of a letter from the psychiatrist.)
- outline of why warrants are required, what efforts have been made to engage the person in the process
- what DAO is requesting police to do (ie. Assessment, review, etc.)

Court:

- Give forms to Court Registrar.
- You will be required to swear on oath.
- Give your phone contact details and the Registrar will contact you as soon as warrants have been signed by a Judge – usually within 4 hours.
- You may then call the police for assistance and give them the warrants.

NB:

1. Warrants are valid indefinitely
2. If the DAO applying for warrants is unavailable Duty DAO/CR take over.
3. Patient does not get a copy of warrant
4. Actioned warrants → Patient file
5. If not actioned, let Court know but don't send them the warrant. Place this in the patient's file
6. Copy of warrant is sent to the DAMHS office