

FAMILY NAME		MRN
GIVEN NAME		<input type="checkbox"/> MALE <input type="checkbox"/> FEMALE
D.O.B. ____/____/____	M.O.	
ADDRESS		
LOCATION		
COMPLETE ALL DETAILS OR AFFIX PATIENT LABEL HERE		

Facility:

BREACH ORDER - SECTION 58(4)

MENTAL HEALTH ACT 2007

_____ (Name of declared mental health facility)

_____ (Address)

BREACH ORDER - SECTION 58(4)

I _____, Director of Community

Treatment of the above-named declared mental health facility, do hereby order that

_____ (patient's full name), an affected person under a

community treatment order, be taken to _____ (name of declared mental health facility)

at _____ (address of declared mental health facility)

I further state that the requirements of section 58 of the Mental Health Act 2007 have been complied with by staff of the declared mental health facility and that the affected person has refused or failed to comply with the requirements of the community treatment order.

Signed 20.....

Relevant sections of the Mental Health Act 2007 are reproduced overleaf.



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NH606704 - 051211

BREACH ORDER - SECTION 58(4)

SMR025.160

58 Breach of community treatment order

- (1) ...
- (2) ...
- (3) On a further refusal or failure by the affected person to comply with the community treatment order, the director may cause the person to be given a written notice (a **breach notice**):
 - (a) requiring the person to accompany a member of staff of the NSW Health Service employed at the declared mental health facility for treatment in accordance with the order or to a specified mental health facility, and
 - (b) warning the person that the assistance of a police officer may be obtained in order to ensure compliance with the order.
- (4) On the refusal or failure by the affected person to comply with a breach notice, the director may, in writing, make an order (a **breach order**) that the affected person be taken to a specified declared mental health facility.
- (5) For the purposes of subsection (3), the director causes a person to be given a breach notice if the director ensures that:
 - (a) the notice is handed directly to the person, or
 - (b) if it is not reasonably practicable to hand the notice directly to the person, the notice is posted to the last known address of the person.

59 Police assistance

- (1) A police officer to whose notice a breach order is brought must, if practicable:
 - (a) apprehend and take or assist in taking the person the subject of the order to the mental health facility, or
 - (b) cause or make arrangements for some other police officer to do so.
- (2) A police officer may enter premises to apprehend a person under this section, and may apprehend any such person, without a warrant and may exercise any powers conferred by section 81 on a person who is authorised under that section to take a person to a mental health facility or another health facility.

81 Transport of persons to and from mental health facilities and other health facilities

- (1) The persons listed below may take to or from a mental health facility or another health facility any person who is authorised by this Act to be taken, or transferred, to or from the facility:
 - (a) a member of staff of the NSW Health Service,
 - (b) an ambulance officer,
 - (c) a police officer,
 - (d) a person prescribed by the regulations.
- (2) A person authorised by this Act to take a person to or from a mental health facility or other health facility may:
 - (a) use reasonable force in exercising functions under this section or any other provision of this Act applying this section, and
 - (b) restrain the person in any way that is reasonably necessary in the circumstances.
- (3) A person may be sedated, by a person authorised by law to administer the sedative, for the purpose of being taken to or from a mental health facility or other health facility under this Act if it is necessary to do so to enable the person to be taken safely to or from the facility.

Note. The *Poisons and Therapeutic Goods Act 1966*, and the regulations under that Act, regulate the persons who may prescribe and administer drugs (including sedative drugs).
- (4) A person authorised by this Act to take a person to or from a mental health facility or other health facility may carry out a frisk search or an ordinary search of the person, if the person reasonably suspects that the other person is carrying anything:
 - (a) that would present a danger to the person or any other person, or
 - (b) that could be used to assist the other person to escape from the person's custody.
- (5) The person may seize and detain a thing found in a search if it is a thing of a kind referred to in subsection (4) (a) or (b).
- (6) In this section:

frisk search means:

 - (a) a search of a person conducted by quickly running the hands over the person's outer clothing or by passing an electronic metal detection device over or in close proximity to the person's outer clothing, or
 - (b) an examination of anything worn or carried by the person that is conveniently and voluntarily removed by the person, including an examination conducted by passing an electronic metal detection device over or in close proximity to that thing.

ordinary search means a search of a person or of articles in the possession of the person that may include:

 - (a) requiring the person to remove only his or her overcoat, coat or jacket or similar article of clothing and any gloves, shoes, socks and hat, and
 - (b) an examination of those items.

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