

## Mandatory Notification for Life Limiting Illness and Permanent Disability

**Policy Number** 1.170

**Policy Function** Continuum of Care

**Issue Date** 16 June 2022

**Summary** This policy outlines the requirement and obligation of Justice Health and Forensic Mental Health Network (the Network) staff to report to CSNSW any Life-Limiting Illness or Permanent Disability to Corrective Services NSW (CSNSW).

**Responsible Officer** Executive Director, Clinical Operations

**Applicable Sites**

- Administration Centres
- Community Sites (e.g. Court Liaison Service, Community Integration Team, etc.)
- Health Centres (Adult Correctional Centres or Police Cells)
- Health Centres (Youth Justice Centres)
- Long Bay Hospital
- Forensic Hospital

**Previous Issue(s)** Policy 1.170 (Feb 2009; Sept 2012; April 2016; Mar 2019)

**Change Summary**

- Title Change
- Some changes to titles and roles and changes to all applications for early release being coordinated via the Nurse Manager Operations, Access and Demand Management and correspondence sent to CSNSW from the Executive Director Clinical Operations.
- Update on process within the Adolescent Health.
- Reinforcement of Justice Health requirements and obligations under clause 285 of the CAS Regulation to report to CSNSW any opinion they form that because of illness, a patient will not survive sentence or is totally and permanently unfit for correctional centre discipline.

**TRIM Reference** POLJH/1170

**Authorised by** Chief Executive, Justice Health and Forensic Mental Health Network

## 1. Preface

Section 160 of the [Crimes \(Administration of Sentences\) Act 1999](#) provides that the State Parole Authority may make an order directing the release of an adult person on parole who is not otherwise eligible for release on parole if the person is dying or if there are exceptional extenuating circumstances. Section 160 does not apply to persons serving a sentence for life. Similarly, s47 of [Children \(Detention Centres\) Act 1987](#) applies for adolescent patients.

## 2. Policy Content

### 2.1 Mandatory Requirements

Pursuant to s285, [Crimes \(Administration of Sentences\) Regulation 2014](#), in respect of adult patients, and s131, [Children \(Detention Centres\) Regulations 2015](#), in respect of adolescent patients;

As soon as practicable after forming an opinion that:

- (a) that the mental or physical condition of an inmate constitutes a risk to the life of the inmate or to the life, health or welfare of any other person, or
- (b) that the life of an inmate will be at risk if the inmate continues to be detained in a correctional centre, or
- (c) that, because of illness, an inmate will not survive sentence or is totally and permanently unfit for correctional centre discipline, or
- (d) that an inmate should not, on medical grounds, be employed at work of a particular nature, or
- (e) that, because of an inmate's medical condition, the inmate is unfit to travel or should only travel by particular means.

a *prescribed health officer* **must** report that he or she has formed the opinion, and the grounds for the opinion, to a prescribed CSNSW officer.

A *prescribed health officer* is:

- (a) The Network Chief Executive (CE), or
- (b) a Medical Officer or other member of staff of Justice Health and Forensic Mental Health Network authorised by the Chief Executive, Justice Health and Forensic Mental Health Network, to exercise the functions of a prescribed health officer for the purposes of the provision. The requirements of clause 285 apply to both sentenced and unsentenced patients.

Justice Health and Forensic Mental Health Network (the Network) staff must proactively identify patients who appear to fall within the definition of this provision. Refer to local escalation/reporting pathway to Manager/s.

Appropriate notifications must be sent via Executive Director Clinical Operations to the Commissioner, Corrective Services NSW (CSNSW) for patients in CSNSW Correctional Centres or to the Executive Director, Youth Justice NSW (YJNSW) for patients in YJNSW Centres. The Nurse Manager Operations Access and Demand Management (NMOADM) will facilitate and support this procedure.

## 2.2 Implementation - Roles and Responsibilities

For patients in adult locations including Long Bay Hospital, Youth Justice locations and external NSW Health facilities; Network managers must contact the NMOADM to provide details of the patient's medical condition. The NMOADM is responsible for liaising with Network staff to facilitate provision of any necessary information to support the notification.

## 3. Procedure Content

### 3.1 Obtaining Consent for Release of Health Information

The Network has an obligation to provide Mandatory Notification for Life Limiting Illness and Permanent Disability. Obtaining Consent for Release of Health Information is not required.

### 3.2 Early Release Applications – Sentenced/Unsentenced Patients

For both sentenced and unsentenced patients; the NMOADM will complete a Brief to the EDCO attaching a draft letter from the EDCO to the Commissioner, CSNSW or Executive Director, YJNSW (using the approved template/s) accompanied by the medical report(s). The medical report is completed by the Clinical Director (stream) or delegate. Additional medical report(s) from External Medical Officers may also be utilised. (refer to medical report template at Appendix 2)

Following approval, the Letter to the Commissioner, CSNSW is forwarded via the Senior Project Officer, Sentence Administration for adults, or to the Executive Director YJNSW for adolescents.

The NMOADM is responsible for collating all documentation relating to the application for early release in TRIM and JHeHS (eProgress Notes).

If the patient's condition deteriorates, health staff must immediately contact the NMOADM as it will be necessary to provide updated advice to CSNSW or YJNSW.

### 3.4 Early Release Applications – Information Requests from CSNSW

In the event that health information is requested from Senior Project Office, Sentence Administration, CSNSW to support application early release; the NMOADM will coordinate all information aligned with section 3.2.

## 4. Definitions

### **Must**

Indicates a mandatory action required to be complied with.

### **Should**

Indicates a recommended action to be followed unless there are sound reasons for taking a different course of action.

### **Sentenced**

Sentenced means the court has imposed a custodial sentence upon the patient following the conclusion of their matters before the court.

### **Unsentenced**

Unsentenced means that the patient has outstanding matters before the court, has been remanded into custody and is yet to be sentenced.

## 5. Legislation and Related Documents

### Legislation

[Crimes \(Administration of Sentences\) Act 1999](#)

[Children \(Detention Centres\) Act 1987](#)

[Crimes \(Administration of Sentences\) Regulation 2014](#)

[Children \(Detention Centres\) Regulations 2015](#)

### Network Policies and Procedures

[4.030 Requesting and Disclosing Health  
Information](#)

## Appendix 1

TRIM Ref: DGXXXXX/XX

Re: [Name DOB: xx/xx/xxxx MIN: xxxxxx]

*[The Network uses the Plain English Foundation's CREDO® structure for its letter template. The acronym, outlined below, guides the order of your content. Overall, aim to write short sentences (≤15 words); and avoid jargon, acronyms and needless detail. Letters should be left justified and limited to one page where possible.] Please delete*

*Medical report should give consideration to the provisions of s285 Crimes (Administration of Sentences) Regulations 2014, as set out at 2.1 of this policy.*

I write this medical report from the Network regarding the above inmate to be considered for early release from custody.

I advise that this report has been prepared on the basis of Network medical review and multidisciplinary discussions with [insert patient's name] treating team.

Medical condition/diagnosis

Prognosis (If possible please indicate weeks/months/years)

Mobility

Future living scenario (Would release plan be to home? hospice? hospital?)

Can the necessary treatment be provided to the patient in custody? (If no, provide further details in extenuating or exceptional circumstances below)

Are there any extenuating or exceptional circumstances? (If yes, please elaborate)

For further information please contact [insert name], [insert position] on [insert telephone number, including area code (02) xxx xxx].

Yours sincerely

[Insert signee's name]

**[Insert signee's position]**

Month 20XX [insert date. Day should be handwritten at the time of signing.]