The SA Mental Health Act Allows Children to be Treated & Given Potentially Dangerous Psychiatric Drugs Without Parental Consent.

The current South Australian *Mental Health Act* allows for the use of electroshock, restraint and seclusion of children.

ELECTROSHOCK (ECT) CAN BE GIVEN TO CHILDREN: Electroshock is the application of hundreds of volts of electricity applied to the head to create a seizure. It can cause memory loss, brain damage and sometimes death. The World Health Organisation states, "There are no indications for the use of ECT on minors, and hence this should be prohibited through legislation." There are various bans around the world that prohibit its use on children and in 2013, electroshock was completely banned for all ages in Sicily.

Under the current SA *Mental Health Act*, electroshock can be given to children, pregnant women and the elderly. The Act also allows for "emergency electroshock" — whereby consent for one treatment of electroshock is not needed from anyone, if a psychiatrist decides that electroshock is needed urgently and it is not practicable to obtain consent. In 2012/13 there were 6,220 electroshocks given in SA, up 13.7% on the previous year. **Electroshock needs to be banned for children, pregnant women and the elderly.** [*WHO Resource Book on Mental Health, Human Rights And Legislation 2005.* page 64, s42(1)(c)(i),(iii), s42(6) of SA Mental Health Act 2009 (SA MHA 2009)]

CHILDREN CAN BE FORCIBLY RESTRAINED: The last thing a parent would want for their vulnerable and upset child, is them being tied down with restraints. This is not therapy — it is abusive treatment. Restraint can and has caused death. The current Act does not make restraint illegal for children, pregnant women or the elderly. The Act also allows for the legal use of "reasonable force" on anyone — regardless of age. Unlike other states in Australia, the SA *Mental Health Act* does not cover the administration of mechanical restraint. There are also no criminal fines or prison terms related to its use. Use of restraint indicates poor skills in dealing with vulnerable children and can lead to trauma and greater mental stress. In 2012/13 there were 2,328 incidents of restraint and seclusion in SA with a duration of anywhere between 1 and 12 hours. There were 2 incidents for children aged 0-15. **Restraint needs to be banned for use in children.** [*Annual Report of the Chief Psychiatrist 2012/13*, pages 15 & 16, s34 (A)(2)(a)(b) of SA MHA 2009]

CHEMICAL RESTRAINT: The SA *Mental Health Act* also provides no legal safeguards for the application of chemical restraint (the use of strong psychiatric drugs to subdue or control the child or adult) despite the fact that the Act allows for this to occur. **Chemical restraint should be illegal for use in children.** [56(6) of SA MHA 2009]

CHILDREN COULD BE PLACED IN ADULT WARDS: Despite the Guiding Principles of the Act stating that, "Children and young persons should be cared for and treated separately from other patients as necessary…" there are absolutely no legal provisions in the Act which rule out children being placed in adult wards. Not having legal protections that prevent children from being exposed to such an environment leaves them open to physical and sexual abuse in an environment where there is insufficient supervision. Paul Mason, former Tasmanian Commissioner for Children and barrister, said that putting children in adult wards should be illegal. [s7(1)(e) of SA MHA 2009]

INVOLUNTARY TREATMENT OF CHILDREN: The current SA *Mental Health Act* allows for the involuntary detainment and treatment of both children and adults. This means that parents cannot take their child home and their consent is not needed for psychiatric drugs, restraint or seclusion. In 2012/13 there were 4,383 people who were on either on an Involuntary Treatment Order (ITO) or a Community Treatment Order (CTO - a legal order to force treatment at home). 28 were children aged 0-15. [*Annual Report of the Chief Psychiatrist 2012/13*, p. 10]

APPEALS: There are various levels of involuntary treatment orders. They allow for detainment of up to 7 days (Level 1), up to 42 days (Level 2) and up to 12 months or 6 months (for a child, Level 3). Parents can appeal the 7 or 42 days detention to the Appeals Division of the Guardianship Board. The 12 months detainment order (or 6 months detention for a child) can only be made by the Guardianship Board and appeal is to the District Court. Community Treatment Orders last for 28 days or up to 12 months (6 months for a child) and these too can be appealed. A lawyer of the person's choice for appeal hearings is paid for by the state. While awaiting the appeal hearing, the child can still be treated without parental consent. Since late 2012, appeals to the Guardianship Board are now only heard by one psychiatrist unlike other states who also have a lawyer and another person who is not a lawyer or psychiatrist. **Only a judge or magistrate should have the right to detain anyone and then only with full legal representation for the person facing deprivation of liberty, paid for by the state.** [*Annual Report of Guardianship Board 2012/13*, pages 32, 33, 34, 35, 45]

ENFORCED DRUGGING OF CHILDREN: If a child or adult is an involuntary patient, he or she can be forced to take drugs against their will, despite serious and often life-threatening side-effects. Parental consent is not needed for the child, violating the parental right to decide their child's healthcare needs. These drugs are not like medical drugs, which commonly treat, prevent or cure physical disease, they are prescribed to change behaviour. The Australian Government have issued at more than 50 warnings for psychiatric drugs since 1995. Potential side-effects include hallucinations, psychosis, diabetes, heart problems and suicidal behaviour. There have been 629 deaths linked to antipsychotics in Australia, 15 of those for children under 19 and another 286 deaths linked to antidepressants, 5 of which were for children aged between 10 and 19. **Parental consent should always be obtained unless there are legal orders which prevent a parent access to their child.**

PSYCHOSURGERY: Completely banned in NSW and the NT for all ages, psychosurgery irreversibly damages the brain by incision or inserting electrodes deep into the brain through which an electrical current is sent as in deep brain stimulation (DBS) psychiatry's latest experimental form of psychosurgery. It can cause memory loss, irreversible brain damage, bleeding in the brain and post-operative death. DBS is not a government approved mental health treatment and is currently only being done in trials in Victoria. It costs around $70,000. The SA *Mental Health Act* allows for psychosurgery to be performed on people over the age of 16 and now calls 'psychosurgery', 'neurosurgery' which is an attempt to hide the true nature of the practice. All forms of psychosurgery need to be banned for all ages. [s3 Interpretation - neurosurgery],[s43 (1)(a)(b)(c) of SA MHA 2009]

ALTERNATIVES: Some children and adults who are troubled require special care—no doubt. But they should get holistic, humane care that improves their condition. Institutions should be safe havens where parents and adults voluntarily seek help for themselves or their child without fear of indefinite incarceration or harmful treatment. They need a quiet safe environment, good nutrition, rest, exercise and help with life's problems. Extensive medical evidence proves that underlying and undiagnosed physical illnesses can manifest as "psychiatric" symptoms, and therefore should be addressed with the correct medical treatment, not psychiatric treatment. Studies show that once the physical condition is handled, the mental symptoms disappear. With proper medical treatment and help with life's problems, children and adults can lead healthier, happier lives.

WARNING: No one should stop taking any psychiatric drug without the advice and assistance of a competent medical doctor.

ACTIONS YOU CAN TAKE

Please visit, write, phone or email the Ministers listed below and your local Member of Parliament requesting them to make amendments to the current Mental Health Act.

Premier: Hon Jay Weatheril, GPO Box 2343, Adelaide SA 5001 • Phone: (08) 82430062 • Email: cheltenham@parliament.sa.gov.au
Minister for Health and Mental Health: Hon Jack Snelling, GPO Box 2555, Adelaide SA 5001 • Phone: (08) 82633777 • Email: playford@parliament.sa.gov.au
Leader of the Opposition: Mr Steven Marshall, Unit 2, 90-94, The Parade, Norwood SA 5067 • Phone: (08) 83639111 • Email: dunstan@parliament.sa.gov.au
Shadow Minister for Health: Hon Rob Lucas, Parliament House, Adelaide SA 5000 • Phone: (08) 82379100 • Email: rob.lucas@parliament.sa.gov.au
Shadow Minister for Mental Health: Dr Duncan McFetridge, 4 Byron St, Glenelg SA 5045 • Phone: (08) 82946711 • Email: morphett@parliament.sa.gov.au
Your Local Member of Parliament contact details: www.parliament.sa.gov/au
To view the *Mental Health Act:* http://www.legislation.sa.gov.au/LZ/C/A/MENTAL%20HEALTH%20ACT%202009/CURRENT/2009.28.UN.PDF
For more information, contact the CCHR National Office on:
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