

Restraint & Electroshock is Legal for Children in *NSW Mental Health Act*

Parental consent not needed

ELECTROSHOCK OF CHILDREN: It is appalling that the current *NSW Mental Health Act* allows for children to be electroshocked (ECT) – the brutal application of hundreds of volts of electricity to the head potentially causing brain damage, memory loss and sometimes death. There are no bans to prevent its use on children in NSW. This is despite the fact the **World Health Organisation stated, “There are no indications for the use of ECT in minors, and hence this should be prohibited through legislation.”**

Western Australia has banned the use of electroshock on children under 14 years of age and ACT has banned it for children under 12. Overseas, electroshock is banned completely in Sicily and Slovenia. There are other bans and restrictions around the world for children.

In NSW an involuntarily detained child can be given electroshock without parental consent required at any stage of the approval process including at a Tribunal who give final approval. A total of 14,717 electroshocks were given in NSW in 2017/2018. In 2018, there were 156 electroshocks given to teens aged 15-19 years old. **ECT needs to be banned for all ages including children, the elderly and pregnant women.** [s94, s96 of *NSW Mental Health Act 2007* (NSW MHA)]

RESTRAINT AND SECLUSION OF CHILDREN: The current Mental Health Act does not cover and provide protections against the use of mechanical restraint (the use of belts, harnesses, manacles, straps etc.) and chemical restraint (the use of psychiatric drugs to subdue and control) or seclusion, leaving these traumatic and abusive procedures in place without legal safeguards. Yet the Act allows for the use of reasonable force and the administration of sedatives while transporting someone to a mental health facility. Instead of legal protections covered by law, restraint usage is covered under a NSW Health Policy Directive plan. **Legal safeguards for restraint and seclusion are needed. Chemical, mechanical and physical restraint must be banned with criminal penalties for their use.** [s81 of NSW MHA]

STERILISATION (Special Medical Treatment): Can be performed on involuntarily detained patients over 16 years of age. Consent is not required from the patient or their carer. A psychiatrist applies to the Mental Health Review Tribunal to have the sterilisation performed. **Sterilisation should be completely removed from the Mental Health Act.** [s98, s103 of NSW MHA]

CHILDREN IN WARDS WITH ADULTS AND SEXUAL ABUSE: The law does not rule out children being held in wards with adults. 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. Also there is no mandatory reporting of sexual abuse or criminal fines in place to ensure reporting of alleged sexual assault of patients. **The law must be amended to ensure children are not placed in wards with adults and to ensure mandatory reporting of alleged sexual abuse to the police.**

INFORMED CONSENT DENIED: The Act provides “Principles for Care and Treatment” [s68] which outline 10 points of care, including that patients should be provided with information about treatments, alternatives, the effects of treatment and informed of their legal rights. However, another clause [s195] states that these principles, including informed consent, are not a “right or entitlement enforceable at law.” **All fundamental patient rights must be enforceable by law.**

CHILDREN CAN BE INVOLUNTARILY DETAINED AND TREATED WITHOUT PARENTAL CONSENT: A staggering 19,225 NSW people were taken to a psychiatric institution involuntarily in 2018/19. The law allows for children to be involuntarily detained and treated without parental consent. Parents are not able to discharge



their involuntarily detained child and parental consent is not needed for further detainment or treatment including psychiatric drugs, restraint, seclusion and electroshock. While this situation is abhorrent enough, parents who wish to appeal to a Tribunal to have their child discharged have no guarantee that an appeal will result in the child allowed to return home. Of the 5,521 individuals the Tribunal reviewed in 2018/19, only 89 were discharged (1.6%). Another 416 were discharged on a legal order to receive drugs/treatment at home. **No child should be treated without parental consent.** [s12, s13, s14, s15, s34, s35, s84, s94 of NSW MHA]

ALTERNATIVES: There is no doubt that some children who are troubled require special care. But they should be given holistic, humane care that improves their condition. Institutions should be safe havens where children and adults voluntarily seek help for themselves or their child without fear of indefinite incarceration or harmful and terrifying treatment. They need a quiet and 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 techniques. Studies show that once the physical condition is addressed, the mental symptoms can disappear. With proper medical treatment and real help people can lead healthier, happier lives.



Please log onto cchr.org.au to see the references for the above information.

**TAKE
ACTION**

Please phone, visit, write, fax or email your local Member of Parliament asking for changes to be made to the NSW Mental Health Act.

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The Minister for Health:

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The Minister for Mental Health:

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The Leader of the Opposition:

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Local Legislative Assembly Members of parliament can be found on this link:

<https://www.parliament.nsw.gov.au/>

You can contact any or all of the Members of the Legislative Council as they each cover all of NSW. Their offices are at Parliament House. Their contact details are on this link:

<https://www.parliament.nsw.gov.au/>

The NSW Mental Health Act can be found on this link: http://www9.austlii.edu.au/cgi-bin/viewdb/au/legis/nsw/consol_act/mha2007128/



For more information contact CCHR: Email: national@cchr.org.au

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CCHR was co-founded in 1969 by the Church of Scientology and Professor of Psychiatry the late Dr Thomas Szasz to investigate and expose psychiatric violations of human rights.

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