

RESTRAINT & SECLUSION OF CHILDREN & ELECTROSHOCK OF CHILDREN OVER 14 YEARS ARE LEGAL IN WESTERN AUSTRALIA

The *WA Mental Health Act* is under review and now is the time to change this.

THE WA MENTAL HEALTH ACT ALLOWS PSYCHIATRY TO COMMIT THE ABOVE TORTUROUS PRACTICES ON VULNERABLE CHILDREN AND ADULTS. Under the *WA Animal Welfare Act*, if someone is cruel to an animal it carries a maximum penalty of \$50,000 and imprisonment for 5 years. Yet in stark contrast, if a psychiatrist or mental health worker ill-treats a psychiatric patient it carries a penalty of only \$24,000 and imprisonment for 2 years under the current *WA Mental Health Act*—significantly less than the penalty for being cruel to an animal.

In June 2021, The World Health Organization (WHO) released guidelines that lashed out against coercive psychiatric practices such as restraint, seclusion, forced electroshock and forced detainment and treatment, that it says “are pervasive and are increasingly used in services in countries around the world, despite the lack of evidence that they offer any benefits, and the significant evidence that they lead to physical and psychological harm and even death.” It points to the United Nations Convention on the Rights of Persons with Disabilities (CRPD) which in essence, calls for a ban on “forced hospitalization and forced treatment.”

The WHO highlighted the fact that coercive practices such as restraint, seclusion, involuntary commitment and treatment occur because “they are mandated in the national [or state] laws of countries.” Despite the challenges to changing laws and treatment paradigms, WHO says “it is important for countries...to eliminate practices that restrict the right to legal capacity, such as involuntary admission and treatment.” Coercive psychiatric practices continue to be rife in WA.

ELECTROSHOCK OF CHILDREN (ECT): ECT is the application of hundreds of volts of electricity to the head to create a seizure. It can cause brain damage, permanent memory loss, heart problems, stroke and even death. The World Health Organisation has stated, “There are no indications for the use of ECT on minors, and hence this should be prohibited through legislation.” While it is a start that WA bans electroshock on children under the age of 14, the law does not go far enough. Children between 14 and 18 years can consent to ECT if considered competent to consent by psychiatry and they can also be given it involuntarily. Parental consent is not needed at any stage if the child consents or they are given involuntary ECT, including when it goes before the Mental Health Tribunal for final approval. There were 5,046 electroshocks funded by Medicare in 2020/21 in WA, a 151% increase since 2010/11. **Recommendation:** Electroshock is torture and must be banned for all ages with severe criminal



finances and prison terms for violation of the ban. [WA MHA s195, s14, s15, s196]

RESTRAINT AND SECLUSION OF CHILDREN: Psychiatric restraint can and does cause death. It should be a crime. In WA it includes physical force, use of mechanical devices (belts, harnesses, straps) and the use of psychiatric drugs to subdue (chemical restraint). Former WA Chief Mental Health Advocate Ms Debora Colvin said it can take up to 5 nurses and security staff to restrain a child and “It must be very traumatising for a child who often already has experienced significant trauma in their short life.” In 2020/21 there were 146 incidents of restraint on children under 18 years of age and a further 989 incidents of restraint on adults. The use of chemical restraint is not covered at all in the current *WA Mental Health Act* so there are no legal safeguards to prevent its use. In 2020/21 there were 86 seclusion incidents on children under the age of 18 years and over 890 seclusions occurred for adults. **Recommendation:** Restraint is criminal, must be banned and made a criminal offence. Seclusion must also be banned. [WA MHA s227]

PSYCHOSURGERY: Correctly banned in NSW and the NT, psychosurgery can involve cutting or burning the brain or inserting electrodes deep in the brain sending an electrical current through it, as is the case with deep brain stimulation (DBS). DBS can cause memory loss, irreversible brain damage, bleeding in the brain and post-operative death. Psychosurgery is only banned in WA for under 16 year olds. A child in WA aged between 16 and 18 years can consent to psychosurgery if considered competent by psychiatry to give consent. No parental consent is needed at any stage of the process including at the Mental Health Tribunal who give final approval. Australian child psychiatrist Dr. Jon Jureidini, posed this question about consenting to psychosurgery: “How could you be so psychologically impaired (that) you’re considered for psychosurgery, yet be considered to be competent to consent?” **Recommendation:** All forms of psychosurgery must be banned in the *WA Mental Health Act* with severe criminal penalties for violation of the law. [WA MHA s205, s207, s208]

INVOLUNTARY COMMITMENT OF CHILDREN: A child or adult can be locked up in a psychiatric facility and forcibly treated,

including with drugs, restraint, seclusion and electroshock (if over 14 years old). In WA, psychiatry has the power to prevent a parent from visiting or speaking to their child if they decide it is not in the child's best interests. While parents can request a hearing at a Mental Health Tribunal (MHT) to have their child released, there is no guarantee the child will be allowed home. In 2020/21, only 28 (3.5%) initial detainment orders were revoked by the MHT and another 37 were revoked but an order for forced treatment at home was written. **Recommendation:** Involuntary detainment and treatment must be eliminated with criminal penalties for violations. [WA MHA s7, s87, s89 (1) & (3), s261, s262, s390, s386, s394]

DEATHS, COMPLAINTS AND LACK OF ACCOUNTABILITY:

Spending on mental health increased 43% between 2013/14 and 2019/20. What are the results from this spending? In 2019/20 there were 12 deaths of young people under 25 years that were either a suspected suicide or physical/unnatural death. In 2020/21 there were 83 deaths for all ages that were either a physical/unnatural death or suspected suicide. ♦ The WA Health and Disability Service Complaints Office stated in their 2019/20 annual report regarding mental health complaints, "The service types that were most frequently the subject of complaints in 2019-20 were psychiatrists/psychiatry (46%), community mental health services (12%), and psychologist/psychotherapists (11%)." ♦ A Productivity Commission 2022 report reveals that 52.8% of WA children aged 0-17 discharged from a psychiatric ward/facility did not significantly improve.

♦ From 2013 to 2017, there were 126 people who had a stay in a psychiatric ward that lasted 365 or more consecutive days. This cost the WA Government an estimated \$115 million. This would be an average cost of over \$912,000 per person. If psychiatric treatments were working there would be evidence of this in the reduction of children and adults requiring assistance. Money cannot be continued to be poured into the current failing WA mental health system when there is a dire need for accountable and effective care. **Recommendation:** Existing money spent needs to be re-directed into proven workable solutions that provide real help.

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.

For references and more information go to:
cchr.org.au/wa-mental-health-act

TAKE ACTION

**PHONE, EMAIL, WRITE OR VISIT YOUR PREMIER, HEALTH MINISTER
AND LOCAL MEMBER OF PARLIAMENT AND:**

1. Request that the revised *WA Mental Health Act* bans restraint, seclusion, electroshock and psychosurgery for all ages and that the World Health Organisation's instructions to cease involuntary admission and treatment are implemented.
2. Ask that the revised *WA Mental Health Act* ensures that criminal penalties are greatly increased, including for ill-treatment and neglect of patients.

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Please also contact your local Member of Parliament: www.parliament.wa.gov.au/parliament/memblist.nsf/WAMembers
♦ Tell others so they too can take action ♦ Write a "Letter to the Editor" to your state and local newspapers.

To read the current *WA Mental Health Act*: www.legislation.wa.gov.au

To read the Discussion Paper: www.mhc.wa.gov.au/media/3847/19105-mha-2014-statutory-review-aw_web.pdf



Contact the Citizens Commission on Human Rights
Email: national@cchr.org.au Phone: 02 9964 9844 Website: cchr.org.au

Warning: No one should stop taking any psychiatric drug without the advice and assistance of a competent medical doctor.
CCHR was established by the Church of Scientology and Professor of Psychiatry, the late Dr Thomas Szasz in 1969 to investigate and expose psychiatric violations of human rights.