

Children able to consent to sterilisation and 12 year olds to consent to psychosurgery and electroshock without any parental consent in W.A.

The W.A. Mental Health Act is under review and the above are included in its proposals. Please take action so that children are protected and parental rights are upheld. Feedback closes on the 9th March 2012. Below are some proposals of gravest concern:

CHILDREN OF ANY AGE TO CONSENT TO STERILISATION: If a psychiatrist decides that a child (under 18 years) has sufficient maturity, he or she will be able to consent to sterilisation. Parental consent will not be needed. Only after the sterilisation procedure has been performed does it have to be reported and then only to the Chief Psychiatrist. [Pages: 135 & 136 of the Draft Mental Health Bill 2011]

12 YEAR OLDS WILL BE ABLE TO CONSENT TO PSYCHOSURGERY: Banned in N.S.W. and the N.T., psychosurgery can involve surgical cutting or burning of the brain or inserting electrodes into the brain. It destroys healthy brain tissue and can cause permanent memory loss, irreversible brain damage, bleeding in the brain, suicide and post-operative death. Despite this, the draft bill proposes to allow a 12 year old child if considered to be sufficiently mature by a psychiatrist, to be able to consent to psychosurgery. Parental consent will not be needed. Once the child has consented it goes before the Mental Health Tribunal (MHT) for approval. Parental consent is also not needed for the Mental Health Tribunal to approve the psychosurgery. [Pages: 108, 109, 110, 197, 198, 199, 213]

12 YEAR OLDS WILL BE ABLE TO CONSENT TO ELECTROSHOCK (ECT): Electroshock is the application of hundreds of volts of electricity to the head. It can cause brain damage and permanent memory loss as well as death. Any child aged 12 and over, whom a child and adolescent psychiatrist decides is mature enough, will be able to consent to electroshock without the need for any parental consent. Also, once the child has consented, there is no requirement for anyone else including the Mental Health Tribunal to approve the electroshock. Electroshock should be banned, but its use on the elderly, pregnant women and children is especially destructive. [Pages: 100, 101, 103, 104, 194, 105]

AGE OF A CHILD: The age of a minor is determined by existing laws and this proposed draft of the mental health bill also defines a child as "a person under 18." While society restricts 12 year olds from smoking cigarettes, drinking alcohol, skipping school, having sex and driving a vehicle, psychiatry wants them to be able to consent to mind altering drugs, electroshock, psychosurgery and sterilisation. How is it then that a 12 year old according to a psychiatrist's subjective opinion could "have sufficient maturity and understanding to make reasonable decisions about matters relating to him or herself when the information provided by psychiatry is biased and subjective? [Page 3]

RESTRAINT AND SECLUSION OF CHILDREN: Children can be restrained in a psychiatric institution, with the use of mechanical restraint (manacles, belts, straps etc.) and bodily force by others. Chemical restraint, the use of psychiatric drugs to subdue and control the person is not covered in the draft bill, so there are no legal safeguards to prevent its application. Death can result from all forms of restraint. Only an oral order is needed for the restraint of a child. [Pages: 122, 121, 113, 246]

INVOLUNTARY COMMITMENT OF CHILDREN: At any time or place a medical practitioner or authorised mental health practitioner (the draft bill does not even define who this "authorised mental health practitioner will be) who "suspects" a child of mental illness can make a legal order for them to be sent to be assessed by a psychiatrist. Even a child at a medical appointment or in a general hospital could be suspected of mental illness and detained. The child can be detained for up to 3 days while awaiting transport for assessment. Once the child is transported to the assessing psychiatrist (usually at a psychiatric hospital) the psychiatrist can involuntarily detain the child for up to 14 days. Parents will not be able to discharge their child and take them home; the psychiatrist has the power to prevent parents, carers and friends from seeing the child if they decide it is in the child's best interest. A psychiatrist can then make a "continuation order" to continue the involuntary commitment for up to 3 months once the 14 days has expired. The psychiatrist can continue to do this in up to 3 month blocks each time. During detainment the child could be drugged, restrained, secluded, given electroshock if over 12 and could be put into a ward with adults. Parental consent is not required to continue the detainment or for any treatment. The Mental Health Tribunal must review the child's detainment within 10 days of admission, however parents can be excluded from this hearing and there is no guarantee the hearing will result in the child being allowed to go home. Of the 1,248 hearings conducted in 2010/11 by the Tribunal, only 4.6% (58) people had their status changed from involuntary to voluntary. This draft means no parent or adult will have the right to defend themselves or their child in a court of law prior to incarceration. Only a judge or magistrate should have the right to order detainment of a person who is defended by a lawyer of their choice and at the cost of the State seeking to deprive the person of liberty. [Pages: 21, 22, 35, 19, 107, 36, 53, 54, 183, 184, 185, 190, 191, 213, 214]

CHILDREN AND COMMUNITY TREATMENT ORDER (CTO): A community treatment order is a legal order that enforces treatment, usually includes the taking of mind altering drugs at home. A CTO can be made by a psychiatrist at any time outside a psychiatric hospital and only needs to be confirmed by another medical practitioner or authorised mental health practitioner. If the child is in a psychiatric hospital it does not need to be confirmed by another practitioner. The initial CTO can be for up to 3 months. A continuation order for the CTO to remain in place can be written for subsequent 3 month blocks. [Page: 18, 46, 47, 48, 65, 66, 70, 73, 75, 76, 77, 183, 184]

WHO WILL BE ABLE TO DETAIN A CHILD IS NOT FULLY KNOWN: An “authorised mental health practitioner” can detain a child or adult. However, an “authorised mental health practitioner” is not defined, leaving it open to wide-sweeping interpretation—not approved by the legislature. The bill alarmingly states the Chief Psychiatrist can literally give anyone or any profession the power to detain someone just because he considers they are qualified and by publishing the decision in the *Gazette*. This clause must be removed. Only a judge or magistrate should have the power to order someone be detained. [Pages: 246, 247, 21, 22]

ENFORCED DRUGGING OF CHILDREN: If a child or adult is made an involuntary patient, he or she can be forced to take drugs against their will, despite the serious—often life—threatening side-effects. Parental consent is not needed for the child, violating the parental right to decide the child’s health care needs. These drugs are not like medical drugs, which commonly treat, prevent or cure physical disease. These drugs also have horrific side-effects including hallucinations, psychosis, 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 those in the 10 to 19 age group.

ADVOCATES: There will be a Chief Mental Health Advocate whom a child or adult can contact when a referral for assessment is made or when admitted. As the draft bill is currently written advocates do not have any specific power to immediately intervene and halt an abuse. Their powers include: to ensure that documents and data are provided to them about the patient, report problems to the head of the mental health service and then the Chief Psychiatrist who will decide if further investigation is needed and assist the patient to make a complaint, to access legal services and attend hearings with them. [Pages: 4, 5, 23, 27, 170, 171, 168, 169]

WHO IS RESPONSIBLE FOR THIS DRAFT BILL?: The W.A. Mental Health Commission (MHC) was responsible for writing the Draft Mental Health Bill 2011. The person overseeing this was the Mental Health Commissioner and clinical psychologist, Mr. Eddie Bartnik. The MHC was allocated a budget of more than half a billion dollars in 2010/2011 to spend on W.A.’s mental health system (this is up 37% since 2007/08). W.A. spends more per capita on mental health services than any other state in Australia.

With a budget of this size one would expect the MHC’s performance indicators to include accountability for the money spent. Instead key performance indicators largely involving “the numbers of people using mental health services” are used by the MHC to determine the mental health wellbeing of Western Australians. This grossly underestimates the monitoring system required.

SOLUTIONS: Some children who are troubled undoubtedly require special care. But they should get holistic, humane care that improves their condition. They should be treated with care and compassion. Institutions should be safe havens where parents can seek help for their children, other family members or themselves, without the fear of indefinite incarceration or harmful and inhumane treatment. They need a safe, quiet environment, good nutrition, rest, exercise and help with life’s problems. Extensive medical evidence proves that underlying and undiagnosed physical illness can manifest as “psychiatric” symptoms and, therefore should be addressed with correct medical treatment, not unworkable psychiatric techniques. Studies show that once the physical condition is corrected, the mental symptoms disappear. With proper medical care and help with life’s problems, people can lead healthier and happier lives.

ACTIONS YOU CAN TAKE

Write expressing your objections to the Mental Health Commission. Feedback closes 9th March 2012 at 5pm.

Email: contactus@mentalhealth.wa.gov.au Mail: GPO Box X2299 Perth Business Centre, W.A. 6847

Send a copy of your objections to the Mental Health Minister, Health Minister and your local Member of Parliament.

Find their addresses at: www.parliament.wa.gov.au/parliament/memblist.nsf/WAIIIMembers

The draft bill can be viewed at <http://www.mentalhealth.wa.gov.au>

**FOR MORE INFORMATION ON THIS SUMMARY, CONTACT THE CITIZENS COMMITTEE
ON HUMAN RIGHTS (CCHR) PERTH OFFICE**

on (08) 9472 9181, email@cchr-wa.org