

THE QUEENSLAND MENTAL HEALTH ACT IS UNDER REVIEW & NEW PROPOSALS WILL ALLOW FOR CHILDREN OF ANY AGE TO CONSENT TO ELECTROSHOCK & PSYCHOSURGERY WITHOUT PARENTAL CONSENT

Forced drugging, restraint & seclusion of children without the need for any parental consent is set to remain legal

Please urgently take action by 26 June 2015

The Queensland Mental Health Act has been under review since mid-2013. The recent election has meant the process of the bill being passed through Parliament had to be re-started from scratch. The current Government has released a draft bill to the public for feedback. Below are areas of grave concern which need to be changed.

ELECTROSHOCK OF CHILDREN (ECT): ECT is the brutal application of hundreds of volts of electricity to the head, potentially causing brain damage, memory loss and sometimes heart attack, stroke and death. The World Health Organization stated, **“There are no indications for the use of ECT on minors, and hence this should be prohibited through legislation.”** Sicily, banned ECT completely in October 2013. Western Australia has just banned the use of ECT on children under 14 years of age.

In Qld, any child (under 18 and voluntarily admitted) considered to have the “capacity to consent,” can consent to ECT and the psychiatrist then applies to the Mental Health Review Tribunal (MHRT) for final approval. No parental consent is needed at any stage. ECT can also be given to involuntarily detained children of any age, if a psychiatrist applies to the MHRT for consent to perform ECT – again no parental consent is needed. The new bill also allows for the use of “emergency electroshock” on children. In 2013, Medicare funded 8,973 electroshocks in Qld (the highest in Australia) up from 6,035 in 2009, a staggering 48% increase. 129 “emergency electroshocks” were given in 2012/13. **Electroshock must be made illegal for use on children, pregnant women and the elderly immediately. It should never be given to involuntary patients without their fully informed consent.** [p.49,174,175,327,328,329 of Mental Health Bill 2015 (MHB 2015)]

PSYCHOSURGERY OF CHILDREN: All forms of psychosurgery are banned in NSW and the NT for all age groups. SA and WA have banned all forms for children under 16. Qld proposes to ban the forms of psychosurgery involving cutting and burning the brain, but to allow deep brain stimulation (DBS) psychosurgery for all ages. In DBS, a hole is drilled into the head to implant electrodes through which an electrical current surges from a pacemaker like device inserted under the skin in the chest. DBS can cause irreversible brain damage, seizures, memory loss, suicide and post-operative death. DBS costs around \$70,000 and is experimental. It is NOT an approved mental health treatment in Australia.

It is proposed that if a child is considered to have the “capacity to consent,” parental consent is not needed at any stage including at a Tribunal who gives final approval for DBS. It is also proposed to re-name psychosurgery-DBS as a “neurosurgical procedure”. They are not the same and this is an attempt to hide the true nature of this experimental practice. Neurosurgery is an operation to rectify a scientifically diagnosed medical condition. Psychosurgery-DBS is performed to change behaviour and the psychiatric diagnosis that leads to the psychosurgery is not based on any scientific test. Psychosurgery must not be re-named as a “neurological procedure.” **All psychosurgery disguised as a “neurosurgical procedure” including deep brain stimulation must be completely banned.** [p.174,173,176,329,330 of MHB 2015]

CRIMINAL FINES AND PRISON TERMS FOR HARM CAUSED BY PSYCHIATRIC TREATMENT: Criminal fines and prison terms are only \$11,385 (100 penalty units—one unit is \$113.85) or 1 year imprisonment for performing electroshock and psychosurgery outside the law. Ill-treatment of a patient carries the same penalty. In comparison the Qld Animal Care and Protection Act, has a fine of \$227,700 (2,000 penalty units) or 3 years imprisonment for causing pain to, abusing, terrifying or worrying an animal. **All criminal fines and imprisonment terms must be increased in any new bill.** [p.174,176,580 of MHB 2015]

CHILDREN PLACED IN PSYCHIATRIC WARDS WITH ADULTS AND SEXUAL ABUSE: The new bill does not rule out children being held in wards with adults. Instead it is proposed that “wherever practicable” they should be “held” separately. The new bill also retains the ability for involuntarily detained children to be strip-searched. 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 that children are not placed in adult wards and to ensure mandatory reporting of alleged sexual abuse to police.**

[p.269,270,277,278 of MHB 2015]

INVOLUNTARY COMMITMENT OF CHILDREN: Children and adults can be placed on a “treatment authority” which means they can be involuntarily detained and treated in a psychiatric institution or be required by law to receive psychiatric drugs at home. This can include forced drugging, restraint, seclusion and electroshock. Parental consent is not needed for involuntary treatment. 6,508 orders for involuntary detainment were made in 2012/13. **APPEALS:** Parents can appeal their child’s detention. There is no guarantee that this appeal will result in the child being able to return home. The new bill includes an improvement where a lawyer will be provided for any tribunal hearings relating to children. But in a potential conflict of interest the Mental Health Review Tribunal appoints this lawyer. **No child should be involuntarily detained and treated without parental/guardian consent. Only a judge or magistrate should have the right to detain someone and only with full legal representation of their choice for the person facing deprivation of liberty, paid for by the State.** [p.18,48,49,51,285 of MHB 2015]

CAPACITY TO CONSENT: Under the new bill, for someone to be considered to have the “capacity to consent” to psychiatric treatment, they must recognise they are “mentally ill.” If they disagree, they are considered not to have the capacity to consent and could be involuntarily detained. A diagnosis is based on “checklists” and arbitrary opinions of psychiatrists. The main manual used in Australia to diagnose psychiatric disorders itself states that there are no laboratory tests for ADHD or Schizophrenia. Medical studies prove that undiagnosed physical conditions can manifest as psychiatric symptoms. This clause will lead to even more people correctly saying they are not mentally ill and subsequently being forcibly drugged and treated for something they do not have. **Full physical tests must be done to determine if their “psychiatric symptoms” are caused by an undiagnosed physical condition.** [p.49,48 of MHB 2015, Diagnostic and Statistical Manual of Mental Disorders (DSMIV) p.88,305]

ACCOUNTABILITY FOR MONEY SPENT: The Qld mental health budget has exploded 42% since 2009/10, up from \$809,996,000 to \$1,152,117,000. Yet there has been a 65% increase in mental health service complaints between 2009/10 and 2011/12. If the funds spent were actually helping people this would be evidenced by decreasing numbers of complaints and people labelled as “mentally ill.”

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. With proper medical treatment and real help people can lead healthier, happier lives.

THERE IS A SECOND DRAFT MENTAL HEALTH BILL: The Opposition Government has placed a second draft bill in Parliament which has been referred to the Health and Ambulance Parliamentary Committee, so there are actually two draft bills. **This fact sheet only contains information which is the same in both draft bills.** Once the Government has received feedback, their bill will be updated, placed before Parliament and also go to the Committee who will then consider both draft bills. It is not known which bill will be eventually chosen. Due to this situation, please urgently provide feedback to the Government’s Mental Health Act Review Team as a priority and also cc the Shadow Minister of Health Mr Mark McArdle, who tabled the second draft bill in Parliament (see below for contacts).

ACTIONS YOU CAN TAKE

Urgently write or email expressing your objections by Friday 26 June 2015 to:
Mental Health Act Review, Department of Health, PO Box 2368, Fortitude Valley BC, QLD 4006
Email: MHA.review@health.qld.gov.au Phone: 07 3328 9674

Please also send a copy your objections to the below Members of Parliament. You can also visit, fax or phone them

Premier: Hon Anastacia Palaszuk, PO Box 15185, City East, Qld 4002 •
Phone: 07 3719 7000 • Fax: 07 33726881 • Email: thepremier@premiers.qld.gov.au

Leader of Opposition: Mr John-Paul Langbroek, PO Box 80, Isle of Capri, Qld 4217 •
Phone: 07 55389833 • Fax: 07 55385560 • Email: Surfers.Paradise@parliament.qld.gov.au

Minister for Health: Hon Cameron Dick, GPO Box 48, Brisbane, QLD 4001 •
Phone: 07 3035 6100 • Fax 07 34454109 • Email: health@ministerial.qld.gov.au

Shadow Minister for Health: Mr Mark McArdle, PO Box 3998, Caloundra QLD 4551 •
Phone: 07 54912780 • Fax: 07 54911801 • Email: Caloundra@parliament.qld.gov.au

Members of Parliament contacts: <http://www.parliament.qld.gov.au/members/current/list>

The Government’s Qld Mental Health Bill 2015 can be downloaded at:
<http://www.health.qld.gov.au/system-governance/legislation/reviews/mental-health/default.asp>

The Opposition’s Mental Health (Recovery Model) Bill 2015 can be downloaded at:
<https://www.parliament.qld.gov.au/work-of-assembly/bills-and-legislation/current-bills-register>

For more information or further copies of this summary, contact the Citizens Committee on Human Rights (CCHR) Australian National Office: Phone: 02 9964 9844 • Email: national@cchr.org.au • Website: www.cchr.org.au