

Sent: 27/02/2009 12:57 PM
To: <mhactreview@dhs.vic.gov.au>
Subject: mental health submission

27 February 2009

Dear Community Consultation Panel members,

I, Marie Kuusela, hereby submit the following recommendations to the Review:

I am writing this submission because I want to change the Victorian Mental Health Act to reflect a greater human rights focus and give people back their dignity which the current Act takes away.

1: The section of the Act which relates to Involuntary Treatment Orders (ITO's)

No person should be detained in a psychiatric institution or facility for any length of time unless an initial medical diagnosis has been made to determine that psychiatric treatment is necessary. The assessment and review process should not be determined by just the treating psychiatrist alone and should not be able to be extended indefinitely. It must at the very least include either the person's own medical practitioner's or other independent medical practitioner's input and assessment to ensure that the best possible outcomes are obtained for the person's health and wellbeing.

Recommendation: Involuntary commitment should be abolished as it deprives individuals of their dignity and liberty when they have broken no law. Until such time as it is abolished the following legal protections are needed:

- a) No person other than a judge or magistrate should have the right to order the imprisonment of any person.
- b) The dangerous person who is violent should be dealt with independently of psychiatrists.
- c) A person is deemed to have a "mental disorder" where it can be determined by a physical, or medical test, such as a brain scan, x-ray or blood test and it is beyond reasonable doubt that involuntary hospitalisation is required as a last resort.
- d) The criteria of "appears to be mentally ill" and "refusal of treatment" should be removed in its entirety from the Victorian Mental Health Act.

2: The section in the Act which relates to the Involuntary Treatment of Children

Safeguards and protective measures must be included to ensure that our future adults are not indiscriminately treated against their, their parent's or legal guardian's wishes and altered mentally or physically by any forms of treatments without fully informed consent. We do not need to create a future population of "legal drug addicts", considering we already have enough problems with the "illegal" drug users.

Recommendation: No child or adolescent aged under 18 years should be involuntarily detained and treated. Parental or legal guardian's consent must always be obtained for any psychiatric treatment, especially those involving the use of dangerous psychiatric drugs, all forms of restraint, seclusion and Electro-Convulsive Therapy (ECT - electric shock treatment.) There should be no difference in parental rights with regard to psychiatric treatment than there is with any other medical treatment. It is completely unacceptable to remove parental rights where those parents are not subject to legal orders preventing them from access to their children.

3: The section in the Act which relates to Electro-Convulsive Therapy (ECT) on Children and Involuntary Patients

Protective measures and safeguards must be included to prevent children or adolescents aged under 18 and involuntary patients from having ECT performed upon them without full informed consent having been given. Well documented and known side effects can include, "brain damage, memory loss, disorientation that creates an illusion that problems are gone."

Recommendation: ECT should be banned from use on all persons, including and especially children and teenagers aged under 18 years, pregnant women and people over 60 years of age. ECT should be forbidden for use on any non-consenting patient, whether involuntarily or voluntarily detained in a psychiatric institution or facility.

WA is banning the use of ECT on any child aged under 12, Victoria should lead the way and ban it for use on any child aged under 16 at least.

4: The section in the Act which relates to the Restraint and Seclusion of Children and Adults

Currently restraint can be administered to persons of any age; including children and teenagers.

All persons admitted to a psychiatric or mental health facility have a right to be free from harm, including unnecessary or excessive physical restraint, isolation, abuse or neglect. In Victoria in 2006, there were over 1,000 instances of seclusion greater than 12 hours. Seventy nine (79%) percent (522) episodes of mechanical restraint were on the elderly and twenty eight (28) episodes were for children under 18.

Recommendation: The use of physical or mechanical restraint and seclusion treatments should be prohibited on anyone aged 18 years or under, pregnant women and persons aged over 60. No restraint or seclusion procedures should be determined as a part of a patient's "therapy" or treatment plan.

5: The section in the Act which relates to Psychosurgery on Children and Adults

Psychosurgery, in all its forms, is an act of operating on the brain which destroys perfectly healthy brain tissue in order to alter behaviour. There are many other safer and proven forms of treatments available and known to all in the medical profession as well as the general public which also alter behavioural problems and allow the person to live a healthier productive life free of "ongoing drug dependence" caused by the operation to remedy the problem in the first instance.

Recommendation: Psychosurgery, in all its forms, must be banned in Victoria. (Already banned in New South Wales and the Northern Territory, this is a practice that continues in Victoria despite its acknowledged controversy.)

5: The section in the Act which relates to Children and Adults on Community Treatment Orders (CTO's)

Any treatments given under an enforced order such as a Community Treatment Order (CTO) should include a requirement which gives a patient or their representative full and informed disclosure of all the outcomes of any treatments before they are commenced and for which consent has been given.

Recommendation: No child or adolescent should be placed on a CTO. Parental or legal guardian's consent must always be obtained for any proposed psychiatric treatment for their child.

7: The section in the Act which relates to the Reviews of Detention Orders and Community Treatment Orders (CTO's)

Persons under Detention Orders and Community Treatment Orders (CTO's) should have some requirements or allocations in place with legal aid/free lawyer to assist them in the process of fighting the legalities of the Mental Health Act. After all, their lives, future wellbeing and health are dependent upon the decisions made by a three member board reviewing their treatment and hearing their appeals whilst being involuntarily treated in the community or in hospitals. They have a basic human right to be heard and assisted in understanding all the processes involved. These hearings should not be permitted to continue without proven acknowledgement that the hearing notice has been received by that person being reviewed.

Recommendation:

Free legal advice should be available to all patients under Involuntary Treatment Orders (ITO's.) Advocates as well as legal representatives should also have right of entry to safe harbour of patients in care.

Additionally, Hearings must not be held in the absence of the patient except where it is proven that the patient is in actual possession of the notice of the said Hearing.

8: The section in the Act which relates to Informed Consent and Dangerous Psychiatric Drugs

How absolutely frightening to become aware of the practice of giving children, teenagers and even babies aged under one doses of antidepressants. How any child or baby could possibly tell their parent that they were clinically depressed is beyond belief, as is the fact that these persons are being treated as "medically ill" and being given psychiatric drug treatment without fully informed consent. There most definitely and urgently need to be safeguards and protective measures put in place to ensure that these "innocent" ones aged under 18 years are protected and provided with all medical diagnostic screening and treatment well before they are classified as being "mentally ill" and used as a means to be experimented upon with mind altering drug therapy, well before their brains are even fully developed.

Recommendation:

All and any known side effects of any proposed treatment must be given to the parent, guardian or patient in written format in their own language or clearly and fully explained to the person by their next of kin, nominated person or lawyer in their own language.

Assistance should also include any necessary counselling, dietary changes, etc, which have a beneficial effect and it should be an offence to prescribe drugs 'off-label' such as anti-depressants to children under the age of 18 and to pregnant women. This assistance should also involve locating the real cause of each and every person's problem and helping resolve that.

A new definition needs to be added to the Act for 'safe and effective' treatment which should mean it does not have any risk of long term side effects, does not lower the person's IQ, mentally impair them in any way or have any risk of permanent physical or mental deterioration.

9: The section in the Act which relates to Alternatives to Psychiatric Treatment

Recommendation:

All treatment options (including no treatment) must be given and explained in language understood by the person, parent or legal guardian and must contain FULL DISCLOSURE OF ALL THE OUTCOMES of those options before any treatment is commenced.

Institutions should be turned into safe havens where people will voluntarily seek help without fear of indefinite incarceration, non-consensual forced experimental drug treatments or other procedures and treatments which may be detrimental to their overall general wellbeing and health. They should be able to exercise their rights to receive care which is delivered with the expected outcome that they will get better and not end up "legalised drug" addicts.

If admitted, they should have a peaceful environment, nutritious healthy food, rest, exercise and work or activities which they have the choice to do or not, and that which boosts morale and confidence, in conjunction with the treatment of their choice.

Such institutions should also be well equipped with medical diagnostic equipment and not just psychiatric equipment as at present.

10: The section in the Act relating to Involuntary Commitment

Recommendation: - the following implementations are essential:

- a. The right to a full and complete physical examination by a qualified medical practitioner who can determine whether an underlying and untreated physical condition is causing the mental state or emotional symptoms. No involuntary commitment procedure should be permitted to occur without this physical examination having taken place by at the least a GP and not just by a psychiatrist.
- b. The right to defend oneself against involuntary incarceration in a court of law where full laws of evidence and the right to legal representation apply, as is done in other States and countries.
- c. The full right to refuse psychiatric drugs or electroconvulsive therapy and the right to have all consent and issuing of rights procedures videotaped for the medical records if one wishes it.

I acknowledge the use of information I obtained from CCHR Victorian office contained in a 4 page summary document entitled "The Victorian Mental Health Act is under Review" along with my own personal thoughts about this critical matter.

I respectfully submit these recommendations and trust that my submission will be seriously considered.

Yours faithfully

(Ms) Marie Kuusela