

Sent: 11/08/2008 02:14 PM
To: mhactreview@dhs.vic.gov.au
Subject: Human Rights and forced treatment

Dear Sirs and Madam

I would like to make a formal contribution to your review of the MHA

I am writing to say there must be change to the Mental Health Act - legislation about when you are an involuntary patient you are forced physically to take medication.

1) Victorians should NOT be restrained by half a dozen staff or orderlies to take a medication which is not of your choice, has side effects which involve risk of life, and is often changed a few days after because it does not work for you.

Under natural justice if you are in jail you do not have to take medication. If you are in a private hospital you can only be treated as a a voluntary patient and are not forced to take medication.

Legislation, the Mental Health Act, needs to be changed to become in accordance with the new Charter of Human rights and UN treaties which forbid forced treatment.

If the medicines are so necessary, let the doctors explain the benefits and persuade us, as they must do so in dealing with other serious risks - smoking, obesity etc.

2) Though the MHA is used to limit human rights and compel us to do things we choose not to do, the hospitals and clinicians routinely ignore it s provisions which apply to them.

Ask someone who knows when the last prosecution of a service or doctors was - I believe the answer will be long ago, or 'never'.

Which implies one two things - either no service in the last 20 years has ever erred or breached the Act (a very unlikely event, give human fallibility), or that breaches go unnoticed and unpunished.

For instance, in Section 76 of the Mental Health Act the laxness of the current act allows the Secretary to just ignore breaches, with a 'wink and a nod' to his or her colleagues .This section - and many others - need to become firmer and more prescriptive - stating clearly that the Secretary 'must' cancel a hospital's ECT licence if offences have been committed on the premises.

If we need to obey the Act, then so surely do services?

3) Many Victorians - enough to fill a small country town- including myself are daily forced to take medications that may not suit us, have serious side effects, including sometimes an early death due to damage to the heart (Clozapine)

Another question to ask someone in the psychiatric profession is "How many patients are misdiagnosed and how many are given the wrong medicines - sometimes half a dozen wrong medicines?"

The formal answer will be some version of 'none'. that too is simply incredible give human fallibility.

Also, you can ask 'How many different diagnoses has the average consumer of psychiatric services had?.' - usually one new diagnosis for every 2 or 3 years of hospitalisation

And the hardest but vital question - "how many Victorians who do not have 'organic mental illnesses' are currently receiving services they don't need, taking medicines which make an ordinary life impossible and having their protestations of having no mental illness ignored as just another symptom?"

And, I am fairly certain that despite numerous very persuasive documented cases, despite admissions by doctors 'off the record', despite the human condition and our fallibility, despite common sense, the answer to that question is some version of - "Well, none of course - we don't make those sort of mistakes."

Ever? Is that credible?

Can there be any doubts that there are Mental Health 'Cornelia Rau' patients who are lost in the current overworked, medicine only and under thought system?

4) We need truly independent and powerful investigators for complaints, so the errors and mistakes which DO happen are made public and fixed - for the sake of the people making the complaints and the hundreds of others who cannot complain.

One thing your review must consider is protection of human rights and people receiving inappropriate treatment.

We want - and need - the right to refuse medications, especially where the officially documented side effects are include early death, 'chemical straightjackets' which make it impossible to live, and other serious long term injury (tardive dyskinesia).

If you wish to hear more of this, please feel free to contact me.
Please respond to let me know you have received this at your earliest opportunity.

Yours Sincerely,
Patrick Brien

Sent: 10/11/2008 02:48 PM
To: mhactreview@dhs.vic.gov.au
Subject:

Dear Sirs and Madam

Concerning your review of the Mental Health Act and Electroconvulsive Therapy (ECT) I do not see why the law gives the Authorised Psychiatrist the right to consent on a patient's behalf . This is an abuse under the Mental Health Act.

To say a person is 'incapable' unless they are actually unable to physically sign a consent for is an abuse of the act, as it goes completely against the spirit of the principle of 'least restrictive' options.

Yours Sincerely,
Patrick Brien

Sent: 19/12/2008 04:15 PM
To: mhactreview@dhs.vic.gov.au
Subject: Complaints

Dear Sirs and Madam

COMPLAINTS

Regarding the complaint mechanism when the Chief Psychiatrist does not take the appropriate action, as mandated by the Act, we need a court or tribunal to decide, one that is easily accessible and does

An example from my own experience is when the Chief Psychiatrist has admitted that the hospital did not have valid consent for three treatments for Electro-convulsive Therapy but did not take the appropriate action and cancel the licence for ECT for the Sunshine Hospital or take ANY action.

There is no independent unbiased body to review this decision; referring to his Minister only gets a response that she refers such matters to him.

Whatever might be considered about my or any specific case, this sort of authority, without meaningful independent review or appeal gives too much power to one individual and is dangerous.

ECT

Additionally, concerning ECT itself, it is a procedure which should never be performed against one's will or without valid consent when doctors will admit they simply do not know how it works.

INVOLUNTARY TREATMENT

Whatever we have got used to here in Victoria, in NO other part of non emergency room medicine, no matter how vital or life threatening, can treatment be given without consent. If I can decide to refuse chemotherapy and thus lose my life to cancer, why cannot I decide to endure whatever psychiatric symptoms to avoid the effects of strong psychotropic drugs, even if there is 'risk to myself'. Risk to others can be discussed separately, and should be based, as in the criminal system on what someone has done and not on simply what someone 'might' do.

Yours Sincerely,
Patrick Brien

Sent: 30/01/2009 12:39 PM
To: mhactreview@dhs.vic.gov.au
Subject: Mental Health Act

30-1-09

Dear Sir and Madam,

I have some further comments for the Review.

I wish to talk about the 5 Criteria. The 5 Criteria, the first is that you 'appear to be' mentally ill. You do not have to BE mentally ill.

This allows Doctors and psychiatrists to flaunt the spirit of the law, and violates human rights as it allows involuntary detention on the basis of appearances not certainties or proofs.

If diagnostic techniques and tests are not developed enough to definitively determine whether someone actually HAS a mental illness or not then citizens of Victoria should not be subject to detention on the basis of these flawed tests.

If there is seen a need to allow apprehension on the basis of appearances, then continued detention should require legal quality PROOF.

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Secondly, about 'refusing' treatment and inability to consent, this is at the moment purely on the doctor's opinion and is against natural justice and the spirit of the Act and of the 'Recovery' model.

Particularly, if someone is willing to accept care and treatment but simply does not, because of experience or what they are told of side effects, want to take a specific medication or treatment that should not constitute 'refusing' treatment.

Disagreeing with a doctor in the community; even choosing to smoke and cut your life short, is not seen as implicit proof of incompetence - why should it be that in mental health.

Recovery says we should actively participate in getting better, not just do as we are told, and that we know ourselves and our path to wellness and need to be heard.

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Also about involuntary treatment, many countries overseas have no equivalent of CTOs and their systems work. If you offer people help that solves the problems making their life hard, they will of their own choice continue with you; we just need to work better at giving people the help they want and need.