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31 December 2008

Jan Snell
Regional Director
North and West Metropolitan Region
Department of Human Services
PO Box 1332
Collingwood Vic 3066

Dear Ms Snell,

Re Review of Mental Health Act 1986

Thank you for your letter of 19/12/08 requesting my participation in one of the 2 sessions to discuss the new act. I very much regret that I will be unable to attend either of the two sessions nominated on 30/1/09 and 23/2/09 because of pre-existing, unbreakable commitments.

Although I am unable to attend I do have some comments with regard to the issues being addressed by the reform of the Mental Health Act.

In my view the 1986 Mental Health Act was enormous improvement on the pre-existing Act generally has worked well to ensure that patients receive treatment in the least restrictive manner possible while getting effective therapy for illnesses that might not otherwise receive appropriate treatment. Nothing in this world is perfect, but I do think there is a significant risk that in reforming the Act the baby may be thrown out with the bath water and the already difficult task of attracting staff to work in mental health facilities may be made more difficult if the Act is re-drafted in a more cumbersome and difficult to administer fashion.

I do think it is important to remember that the right to receive treatment is one that should not be neglected and that those individuals central to this process who have not read the excellent book by M Roth & J Kroll on the "Reality of mental illness" (1986) should do so.

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There have been criticisms of the current Act in relation to the high number of hearings which confirm the initial decision of the treating psychiatrist. I suspect the main reason for this is experienced psychiatrists well understand the rules of the current Act and only make appropriate orders which are then confirmed by tribunals. I do not think that in 21 years of practice in Victoria I have ever seen any evidence of conspiracy between tribunals and treating psychiatrists. I note that review tribunals have a majority of non-psychiatrists and that they include a lawyer and member of the lay public.

With regard to CTOs I believe it appropriate that CTOs be continue to be made by an authorised psychiatrist or a delegated authorised psychiatrist. There may be some scope a more variable length of CTO and it may be appropriate to review them more often than annually, although this would increase the workload related to CTO administration and any such reform would need to be accompanied by funding to permit the administration of any more frequent reporting system.

Improvements in the giving of information about rights to patients might include routine video or DVD presentations about rights in addition to the availability of written information about rights.

The problem with requiring a second psychiatrist to give an opinion before ECT is performed is that on occasions ECT can be urgently needed and potentially be lifesaving and required on a very short time frame. Nevertheless, given community concerns about this highly effective and very effective treatment (most of which are misplaced) I would support the utilisation of a second opinion before ECT can commence where it is requested by a patient or a relative. In practice many psychiatrists who work in teams do get the opinion of another psychiatrist before ECT is performed.

I agree that physical restraint should be dealt with in the new Act in a more comprehensive manner than purely in relation to the safe transport of a individual to a mental health facility.

I think the review of involuntary treatment orders within eight weeks is a rather long timeframe and I think four weeks would be more appropriate timeframe.

I agree that a formal complaints system should be instituted to replace the current informal system which is not governed by the Act. However again it should be noted that any expansion of the complaints system will generate additional work and will therefore incur costs and these should be budgeted for and funded within the mental health service budget.

Thank you for considering these thoughts.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'David Ames', with a horizontal line underneath.

Professor David Ames BA, MD, FRCPsych, FRANZCP
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Consultant Psychiatrist, St Vincent's Aged Psychiatry Service