

Mental Health (Recovery Model) Bill 2015

Submission to the Parliamentary Committee

RIGHTS IN ACTION INCORPORATED

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Rights In Action Incorporated (RIA) are pleased to have participated in a public consultation and the opportunity to provide feedback on the draft *Mental Health Bill 2015*. We were also honoured to have been present in parliament when the Minister for Health and Minister for Ambulance Services, the Hon. Cameron Dick MP

RIA is an independent advocacy agency for people with disabilities who reside in Cairns, Yarrabah, Atherton and Mareeba. Our primary focus is to uphold the human rights of vulnerable people with significant disability, and people with severe and persistent mental illness, aiming to prevent and protect people from discrimination, abuse, neglect and exploitation.

We are pleased that the Review of the *Mental Health Act 2000* had identified scope to improve the positive outcomes for people on involuntary treatment orders and would like to provide comment and recommendations on the specific consultation document - Strengthening Patient Rights.

RIA supports the provision of requiring the authorised mental health services to appoint a Patient Rights Advisor with the function of advising involuntary patients, families and support networks, on their rights and obligations under the *Bill*.

Current Issues:

Families, carers and disability service providers have informed our agency that:

- families and carers are often told by clinical staff and mental health Case Managers that they are unable to disclose information to families and carers without the patients consent due to the Privacy Act;
- these stakeholders are requested to provide the care and support when the patient leaves the mental health facility however they rarely have any involvement in the development of the treatment or transition plan;
- stakeholders are not seen as the support person and informed that they must be appointed as legal guardians to access information; and it has been observed that the appointment of a Legal Guardians such as the Office of the Public Guardian, generally do not attend Mental Health Review Tribunals

People with Mental Illness on involuntary treatment orders report that:

- they do not understand the MHRT process or their rights, and that the information may need to be repeated a number of times to various persons;
- many people are on lengthy order of over two years and often unwilling to attend the MHRT as they feel intimidated due to the inequitable ratio of power and control (often many clinical team members present but limited support for the individual present at the hearing);

- people do not want to attend hearings at the mental health facility if they are held at the Mental Health Unit as a current patient;
- they do not complete Self Reports stating that “they do not have a voice”, “their written report is not valued and the Tribunal always sides with the clinical report even if this report has no factual information”;
- “I am happy to stay on the order because I don’t have to pay for my medications”
- “I didn’t know I could have an allied person. Who is this? I don’t have any family in Cairns. I didn’t know I could have an Advocate or Legal representation. Can I have my GP who sees me regularly attend? Do I have to pay for representation?”;
- many people on ITO’s stated that they received a copy of the clinical report on the day of their hearing. They were unaware that the hearing could be adjourned, however stated that they did not want the hearing to be adjourned because they did not want to come back (even if it meant the order may be revoked) and they couldn’t afford the time or travel expenses and the “shame/embarrassment” to attend the hearing if it was postponed;
- it is viewed that the ITO is “a form of punishment” rather than a recovery plan, “we are told that we must conform to their rules”, “I was taken to hospital by the Police, I feel like was in goal but I did not commit a crime”;
- there is limited understanding of an Enduring Power of Attorney and/or Advanced Health Directive (appointment of an attorney for personal/health matters) and who holds these documents.

Patient Rights Advisor

Rights In Action believe that:

- The Patient Rights Advisor is an essential and important role to ensure all parties are able to access information and enhance their understanding of the Act and their rights. However the title of this position may require further consideration as it is:
 - confusing for those people who are on ITO’s but not a patient
 - role differs from Patient Liaison Officers that work in hospitals and
 - role should not be perceived as the Complaints Advisor/Officer
- This position should be **independent** and not part of the clinical mental health service, nor should this role be engaged as an employee of Queensland Health or an employee of the hospital and health Service..
- The Patient Rights Advisor is to ensure every person on an ITO and their supporting parties are given a statement of rights and information on how to make a complaint.
- That the statement of patient’s rights be provided in accessible format(s) that meets the needs of the individual (easy English, alternate language, pictorial)
- That the administrator of an authorized mental health service must display the “Statement of Patient Rights” in prominent positions in the service and include a sign stating that the statement of rights is available in alternate format(s) on request.
- Provide regular forums and educational activities

- Should not impact on or duplicate the existing role of the Community Visitor program;
- Should be adequately resourced to address diversity and cultural needs of individuals, families and carers; and
- Be accessible to rural and remote communities

The Rights for Patients to Choose a Nominated Support Person.

Rights In Action:

- Supports the renaming of the Involuntary Treatment Order now referred to as the Involuntary Treatment Authority however would prefer that treatment and discharge plans to be renamed Recovery Plan;
- Supports that the allied person should be changed in the MHA and replaced by the rights of people on ITO's to appoint a *nominated* person;
- That the provision of a nominated person not be limited to one support person;
- The nominated person be broaden to include more than one person and /or joint parties where applicable;
- Encourages community education on making Enduring Power of Attorney and Advanced Health Directives;
- promotes where possible an independent advocacy service under the National Disability Advocacy Program or current state funded program is appointed to assist a person on an ITO if there is no nominated person or where the nominated person is identified by any party to have a conflict of interest in representing the person on an ITO. In addition that advocacy agencies are assisted to develop their capacity to assist people with mental illness; and
- that the Case Coordinators arranging the Mental Health Review Tribunal hearing ensures that all reports are provided to the patient and their nominated persons and support providers as outlined in the *Bill* prior to the hearing to enable all parties to adequate time to prepare for the hearing.

RECOMMENDATIONS:

The Mental Health Bill 2015

Chapter 9

Rights of patients and others

Part 5

Independent Patient Rights Adviser

3) An independent patient rights adviser may be—

(a) an employee of an entity that a Hospital and Health Service has engaged to provide services; or

~~(b) an employee of a Hospital and Health Service but not employed in the Service's mental health service.~~

Recommendation 1: That Part 5, 3 (b) be removed.

That the Patient Rights Advisor positions are established independent from the hospital and health service or mental health service, and those independent entities are engaged to provide these services.

Recommendation 2: That the Queensland Government investigates and establishes appropriate mechanisms to provide funding and resources to support independent entities (non-clinical and legal service) that host the Patient Rights Advisor under the 2015 *Bill* (using existing community services rather than establishing new services).

Recommendation 3: That the statement of patient rights be displayed in prominent positions in the mental health service and a sign stating that these rights are available in accessible formats on request.

Recommendation 4: That there is a process that educates and promotes the use of a e-mental health system that can record, EPA, Advanced Health Directives, nominated persons and that there is a system that records that information on the rights of the patients has been provided.

Recommendation 5: That the Mental Health Service develops a process from implementation of the ITO to revoking the ITO that upholds the human rights and promotes the least restrictive environment, treatment and care addressing recovery principles in line with the Mental Health Act.

Recommendation 6: That the Queensland Government provides funding to support the current independent individual advocacy agencies to support individuals on an involuntary treatment authority and to accompany to them to their Mental Health Review Tribunal hearings, especially in instances where there is no nominated person(s).

Recommendation 7: That people with mental illness are able to appoint more than one or a joint appointment of a nominated person(s).