

16 October 2015

Leanne Linard MP  
Chair  
Health and Ambulance Services Committee  
Parliament House  
George St.  
Brisbane QLD 4000

By email to: [hasc@parliament.qld.gov.au](mailto:hasc@parliament.qld.gov.au)

Dear Ms Linard

**Re: Submission to Mental Health Bill 2015**

The Queensland Branch of the Royal Australian and New Zealand College of Psychiatrists (RANZCP) welcomes the opportunity to respond to the Health and Ambulance Services Committee on the Mental Health Bill 2015. The RANZCP will provide comment on the Mental Health Bill 2015 only as it provided a submission to the draft consultation Bill in June 2015.

The RANZCP is pleased that the Mental Health Bill 2015 (the Bill) has introduced changes which were recommended by the RANZCP, particularly the introduction of the principle that the Mental Health Court can decide if a person is of unsound mind at the time of an alleged offence proceedings may not be taken against the individual (section 119). This is a fundamental principle that works towards safeguarding the rights and liberties of people in Queensland with mental illness.

The RANZCP is also pleased that the Bill extended the conditions for an emergency examination authority to include that the person must appear to have 'major behavioural disturbances'. This has strengthened the conditions for an emergency examination authority so it is not abused or used incorrectly (section 919 157B).

The RANZCP would like to highlight to the Committee the following concerns it has of the Bill:

- **Section 27 and 318** - it is not appropriate for victims to receive clinical information about patients. It is the view of the RANZCP that providing information on a patient's risk assessment may be damaging to victims. The RANZCP considers it necessary to have clear guidelines about the kind of information that can be provided to victims, and a process of independent review made before information is provided to ensure information is appropriate for release.
- **Section 39** - there are no longer separate assessment and treatment criteria. In practice, when an assessment process begins, it is unclear whether treatment criteria

may or may not apply. The Bill's assessment criteria should be altered to focus on whether the person 'appears to have mental illness', which focuses on the need for assessment and therefore a person's need for treatment, rather than whether the person 'has a mental illness' (as per the Bill's treatment criteria). A possible model for this could be section 29 of the Mental Health Act 2014 (Vic) where the criteria for an assessment order are based on the concept that the 'person appears to have mental illness.'

- **Section 97** - the inclusion of a 'support person' to be entitled to attend a patient's examination presents two potential problems. Firstly, the provision for a lawyer to act as a 'support person' sets an unnecessarily adversarial tone for purely clinical interviews. Secondly, another person in attendance at the examination, such as a family member, may inhibit the patient's candour with the psychiatrist undertaking the examination. It will be helpful to have strong guidelines that clarify the role of the support person and restrictions on their actions during the examination.
- **Section 135** - the Mental Health Court has the power to impose conditions on forensic orders with regards to treatment, when treatment of the patient should remain the sole preserve of the treating psychiatrist. The RANZCP is supportive of the introduction in the Bill that the Court may not impose conditions with regards to a person's medication. However, the RANZCP view that the Mental Health Court should only be able to make recommendations rather than impose conditions.
- **Section 135 and Schedule 3** - monitoring conditions in a forensic order or court treatment order should exclude the use of tracking devices which are used in the criminal justice system. Patients wearing tracking devices (e.g. GPS bracelets) are at risk of being stigmatised due to being singled out as mentally ill or misapprehension that they are a sexual offender. It is the RANZCP's view that tracking devices are contrary to key elements of a therapeutic alliance and recovery principles.
- **Section 256** - the inclusion of the practice of allowing the Chief Psychiatrist to issue a written direction about seclusion. The RANZCP considers the proposal for the Chief Psychiatrist to issue seclusion directions about individual patients is inappropriate because it interferes with the clinical governance of these patients.
- **Section 738** - the RANZCP welcomes mandated legal representation for patients involved in certain Tribunal hearings, particularly where there is no cost to persons. However, the Bill does not contain information regarding the process to occur if lawyers are not available for the relevant hearing (for whatever reason). There is the potential for significant clinical deterioration if hearings such as electroconvulsive therapy applications are deferred because lawyers are not present.

The RANZCP is committed to helping the government develop a strong and robust Mental Health Act for Queensland. If the Committee requires further information or would like to discuss the issues raised in this letter please do not hesitate to contact the RANZCP's policy officer, Judith Johnston on (07) 3852 2977 or by email on [judith.johnston@ranzcp.org](mailto:judith.johnston@ranzcp.org).

Yours sincerely



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