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16 October 2015

Health and Ambulance Services Committee
Parliament House
George Street
Brisbane QLD 4000
hasc@parliament.qld.gov.au

Re: AMA Queensland Response to Mental Health Bills before the Health and Ambulance Services Committee

Dear Ms Linard,

Thank you for providing AMA Queensland with the opportunity to comment on the differences between the Mental Health (Recovery Model) Bill 2015 (Qld) and the Mental Health Bill 2015 (Qld) currently being considered by the Health and Ambulance Services Committee.

AMA Queensland has consistently stated that we believe only the Mental Health Review tribunal or the Mental Health Court should have the ability to place monitoring conditions – including the use of GPS monitoring devices – given the potential to impose upon individual liberty. We stridently believe that this power should not rest with the Chief Psychiatrist. The operation of Section 217 of the Mental Health (Recovery Model) Bill 2015 (Qld) explicitly returns this power to the Chief Psychiatrist. This is also evidenced in the statement by the Honourable Mark McArdle MP in introducing the legislation in stating:

“Firstly, the health minister made some comment about a ‘bureaucrat’ having the right to impose a GPS monitoring device. The bureaucrat he is referring to is in fact the Chief Psychiatrist of this state. The senior psychiatrist appointed by the government is the bureaucrat referred to by the health minister”¹

In its current form, AMA Queensland retains significant concerns about this provision and is unable to support the Mental Health (Recovery Model) Bill 2015 (Qld) as it currently stands.

AMA Queensland would also like to take the opportunity to implore that the Health and Ambulance Services Committee recommend the following change to the Mental Health Bill 2015 (Qld) as raised in our original submission.

Section 109(2) of the Mental Health Bill 2015 (Qld) provides that:

“However, unsound mind does not include a state of mind resulting, to any extent, from intentional intoxication or stupefaction alone or in combination with some other agent at or about the time of the alleged offence”

AMA Queensland strongly recommends that the wording be changed from “to any extent” to “any significant extent”. This amendment would better recognise the complexities of determining unsoundness of mind and provide the judicial system with scope for discretion, depending on the individual facts of the case.

AMA Queensland believes that an effective and modern mental health legislation is absolutely essential. We note that this is our fourth submission during the Mental Health Bill consultation process. We are willing, and able, to continue to provide our members’ expertise to ensure that Queensland receives the legislative framework that it requires.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Chris Zappala".

Dr Chris Zappala
AMA Queensland President

¹ Hon Mark McArdle, Introductory Speech, Mental Health (Recovery Model) Bill 2015 (Qld), 5 May 2015.