



The Royal  
Australian &  
New Zealand  
College of  
Psychiatrists

Queensland Branch

1 February 2013

Hon Lawrence Springborg MP,  
Minister for Health,  
GPO Box 48,  
BRISBANE, QLD. 4001

Dear Mr Springborg,

I am writing to you on behalf of the Queensland Branch Committee of The Faculty of Forensic Psychiatry in response to the Queensland Mental Health Commission Bill 2012 and proposed amendments to the Mental Health Act 2000 which are currently before Queensland Parliament.

**The Queensland Branch Committee of the Faculty of Forensic Psychiatry supports the development of a Mental Health Commission.**

- The Mental Health Commission (MHC) aims to promote statewide equity and consistency for the delivery of evidenced based mental health care across Queensland.
- We support the development of a whole of government plan to ensure comprehensive mental health policy and practice that embraces the broader mental health sector.
- In particular we acknowledge the benefit of a statewide strategic approach to service delivery that is essential to ongoing high standard, equitable Forensic Mental Health Services (FMHS). The MHC can help support the necessary holistic and strategic approach to FMHS and continuing inter-service and cross government collaboration.

**The Queensland Branch Committee of the Faculty of Forensic Psychiatry has the following concerns about the Bill:**

- In developing a whole of government plan for mental health care, the MHC must be able to ensure that the plan is not only appropriately monitored, but also implemented. At present it does not appear that the MHC has the relevant powers to ensure that this occurs.
- Queensland currently has a comprehensive plan for mental health services, Queensland Plan for Mental Health 2007-2017. This plan should continue to guide the development of mental health services in Queensland until such time as the MHC plan is operational.
- Given the intended whole of government plan proposed by the MHC we believe that it would be most effective for the MHC to report directly to the Premier. The Committee is of the view that the office of the Director of Mental Health should have a clear role in relation to the MHC.

**The Queensland Branch Committee of the Faculty of Forensic Psychiatry has the following concerns about the proposed amendments to Mental Health Act 2000:**

**1. Provide the Director of Mental Health (DMH) with the power to suspend Limited Community Treatment (LCT) for a patient or groups of patients subject to a Forensic Order, Classified Status or Section 273(1)(b) patients:**

- Limited Community Treatment (LCT) is an accepted standard of clinical practice nationally and internationally in Forensic Mental Health Services (FMHS). It enables inpatients to access important

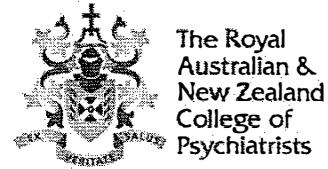
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components of rehabilitation, enhances recovery and facilitates a graduated reintegration into the community. We note that The National Standards for Mental Health Services 2010, emphasizes recovery orientated mental health practice including the need for supporting autonomy and empowering individuals. The Director of Mental Health should take into account views of clinical teams in a collaborative process.

- The Director of Mental Health should not make decisions that impact on an individual's LCT simply because they fall into a "class" of patient. The Mental Health Review Tribunal (MHRT) and the Mental Health Court (MHC) make decisions about LCT for individuals and not for a "class" of patients. If a decision to suspend LCT is made by the DMH in relation to a "class" of patient with no consideration to the individual or management circumstances, it is our view that this is contrary to natural justice and human rights principles.
  - Any action taken by the DMH that impacts on the LCT of an individual patient must be done so in a manner consistent with natural justice (i.e. statements of reasons should be provided, it should be individually based and there must be a right of appeal).
- 2. Provide the Director of Mental Health with the power to impose monitoring conditions for Forensic, Classified and Section 273 (1)(b) patients undertaking Limited Community Treatment which may include the patient wearing a device for monitoring the patient's location while on limited community treatment.**
- The Committee of The Queensland Faculty of Forensic Psychiatry strongly opposes the use of monitoring conditions that include tracking devices.
  - The view of the Committee is that the use of tracking devices is unnecessary, ineffective in reducing risk of reoffending, expensive and contrary to human rights conventions and natural justice. Patient confidentiality would need to be safeguarded if the monitoring of patients by tracking devices was to be undertaken by non Queensland Health staff.
  - Patients on a Forensic Order have been found of unsound mind or unfit for trial by a Queensland Court (most frequently the Mental Health Court) and thus are considered to not be criminally responsible. Some of the key ethical frameworks for the treatment of mentally ill people in the Forensic Mental Health System include; the United Nations principles for the protection of people with mental illness and for the improvement of mental health care, the United Nations convention on the rights of persons with disabilities and the National Statement of Principles for Forensic Mental Health Services.
  - We understand that currently Queensland Forensic Mental Health Services have a rigorous process for determining suitability for LCT. This includes specialist Forensic Mental Health treatment teams undertaking comprehensive clinical and risk assessments. LCT applications are then subject to review for endorsement or otherwise by the Limited Community Treatment Review Committee (LCTRC), a committee separate to the treatment team. Following this process the application for LCT is reviewed by an independent statutory body, the Mental Health Review Tribunal (MHRT) who determine whether LCT should be granted and under what conditions. This means that LCT granted by the MHRT is used at the discretion of the treating team and thus subject to further monitoring and review with respect to its implementation. Additionally, there is a mechanism via which the Attorney General's office can appeal MHRT decisions, resulting in their review by the Mental Health Court. The Committee is aware that the High Security Inpatient Unit (HSIU) regularly facilitates a large number of LCT with a very low number of Absences Without Permission (AWOP) occurring.

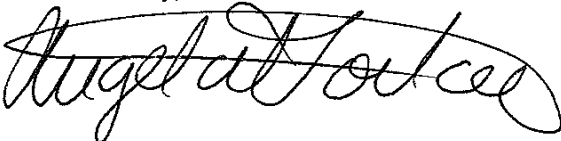


- The evidence is that the use of GPS tracking devices is unnecessary and ineffective in decreasing the risk of future violence in mentally ill offenders. Mental illness is an important, but modest risk factor for future community violence, when compared to other factors. Research has shown that persons found of unsound mind reoffend less frequently, commit fewer offences (including fewer violent offences) and reoffend less quickly, when compared to persons not afforded a mental health defence.
- The use of GPS tracking devices is counter productive in building therapeutic relationships which foster disclosure by patients, establish trust and hope. This is best promoted by a staged approach to LCT, which enables a patient's mental health and coping to be tested over time, while gradually affording greater freedom and responsibility. Combined with comprehensive risk assessment, this approach is more reliable than either approach alone.
- There are no Forensic Mental Health Services in Australia that use tracking devices for patients who undertake LCT. Currently the use of tracking devices in Queensland is supported under the *Dangerous Prisoner (Sexual Offender) Act 2003*. This act provides for a "particular class of prisoners", those with repeat sexual offences assessed as being of continuing high risk. Patients in the HSIS are not prisoners. Nor do the offences committed by the vast majority meet the criteria for the "particular class" that this legislation applies to.
- We note that The National Standards for Mental Health Services 2010, emphasizes recovery orientated mental health practice including the need for supporting autonomy and empowering individuals. This is fundamental to the concept of LCT from the HSIS. That is, an individual begins to take responsibility for the processes of reintegration into the community in a graduated fashion, using the trust and therapeutic alliance established with the treating team. The concept of tracking devices is not consistent with this process. To the contrary their use may undermine recovery principles, therapeutic alliance and ironically exacerbate potential risks of adverse incidents.
- There would a substantial cost associated with GPS tracking devices and the monitoring of patients whilst undertaking LCT.

**3. Proposed changes to the Mental Health Act enabling the publication of additional identifying information about a Forensic, Classified or Section 273 (1)(b) patient who has absconded.**

- The Committee is concerned about the possible further erosion of patient confidentiality and is of the view that there are already sufficient mechanisms in place to ensure that adequate information is provided to authorities in the event of a patient absconding from a mental health facility.

Yours sincerely,



Dr Angela Voita  
Chair  
Queensland Branch Committee of the Faculty of Forensic Psychiatry