

## Attachment A

<b>Models of involuntary detoxification and rehabilitation</b>			
<b>QNU comments</b>	<b>Queensland Health Proposal</b>	<b>Victoria</b>	<b>New South Wales</b>
<p><b>Legislation</b></p> <p><b>Principles to protect need to reflect those applicable to Persons with a Mental Illness.</b></p> <p><b>The NSW Act seems to be modelled on the <i>Mental Health Act 2000 (Qld)</i> which includes significant safeguards to balance a person’s human rights with the opportunity for access to treatment when a person refuses or is unable to consent to assessment and/or treatment.</b></p> <p>Tasmania’s <i>Mental Health Act 1996</i> also provides suitable and adaptable criteria.</p> <p><b>New legislation needs to consider mechanisms for detaining / restraining individuals suffering severe substance dependence with appropriate safeguards for the consumer/detainee and the staff providing the care- both for maintenance of their professional standards and registration and for their safety in the workplace e.g. seclusion.</b></p> <p><b>QH should make details of the suitability of Townsville as the trial site available.</b></p>	<p>Legislation needed, along with policies and guidelines. Legislation should include principles to protect rights of patients.</p> <p>Propose small trial. Initial assessment of community need, availability of facilities and qualified staff result in suggestion that Townsville is a possible location.</p>	<p><i>Severe Substance Dependence Treatment Act 2010</i></p> <p>Commenced March 2011</p> <p>Review of Act to be completed by March 2015, and made public by June 2015</p>	<p><i>Drug and Alcohol Treatment Act 2007</i> is the basis for a trial of involuntary care and treatment. The trial commenced in 2009 in areas prescribed by regulation, in which the <i>Inebriates Act 1912</i> does not apply. The summary below relate to this Act</p> <p><i>Inebriates Act 1912</i> - still in effect in parts of NSW</p>
<p><b>Purpose of legislation or proposal</b></p> <p><b>If the proposal is consistent with the NSW legislation, it would reasonably include the protection of the individual who is severely drug dependent and the</b></p>	<p>Short term care for people with severe substance dependence</p> <p>Enable comprehensive assessment, medicated withdrawal, support to restore decision making capacity</p>	<p>Detention and treatment of people with severe substance dependence, to save life or prevent serious damage to health to enhance capacity to make</p>	<p>Involuntary treatment of people with severe substance dependence, aim of protecting their health and safety</p> <p>Comprehensive assessment</p>

<p>protection of others including minors for whom the person may be responsible.</p>		<p>decisions about substance use and health, welfare and safety Act must be interpreted so that detention and treatment is a last resort</p>	<p>Stabilisation of person, including through medically assisted withdrawal Opportunity for voluntary treatment &amp; restore capacity to make decisions about substance use and personal welfare Act must be interpreted so that detention and treatment is a last resort</p>
<p><b>Eligibility criteria for involuntary treatment (adults, not minors)</b></p> <p>If modelled on NSW legislation then the separation of the assessment and treatment processes would be facilitated so that the individual has access to a review when they are unable or unreasonably refuse to participate – as is the case in the current Qld mental health legislation.</p>	<p>Criteria for severe substance dependence will reflect contemporary and best practice diagnostic criteria Propose same criteria for involuntary treatment as NSW</p>	<p>Has a severe substance dependence (defined in Act, see p. 3 above) Immediate treatment necessary to save life or prevent serious damage to health Treatment can only be provided through admission &amp; detention No less restrictive means reasonably available</p>	<p>Has a severe substance dependence Care, treatment or control is necessary to protect the person from serious harm Person is likely to benefit from treatment of substance dependence but has refused treatment No other appropriate and less restrictive means reasonably available</p>
<p><b>Who applies for involuntary treatment?</b></p> <p>We support this proposal as it is consistent with the NSW and Qld legislation but emphasise the role of mental health nurses as appropriate ‘health workers’ to be authorised under the proposed legislation</p>	<p>Health, community or social worker apply to “authorised medical practitioner” for assessment (voluntary)</p>	<p>Any adult may apply to the Magistrates Court for a detention and treatment order, which must be heard within 72 hours</p>	<p>Medical practitioner may request assessment by accredited medical practitioner (appointed by director general of health)</p>
<p><b>Who assesses?</b></p> <p>Consideration should be given to the future workforce and if there will be opportunities for authorisation to other disciplines as currently exists in QLD mental health legislation e.g. Nurse Practitioners with addictions/dependency expertise and qualifications.</p>	<p>Authorised medical practitioner</p>	<p>Prescribed registered medical practitioner</p>	<p>Accredited medical practitioner</p>

<p><b>Is assessment voluntary? Can person be detained?</b>  <b>This approach is consistent with the <i>Mental Health Act 2000 Qld</i> and seems to provide a balance between a person's human rights and state intervention.</b></p>	<p>If person does not cooperate with voluntary assessment, application to Magistrate for order for compulsory assessment, either detained in hospital for 3 days, or in community</p>	<p>No detention for assessment. Police officer or another person may apply to Magistrate for a special warrant to examine a person; police may accompany a medical practitioner to examine the person</p>	<p>If accredited medical practitioner is unable to assess the person, a magistrate or authorised officer may authorise the medical practitioner to visit and assess; police assistance may be authorised</p>
<p><b>Who decides on involuntary treatment?</b>  <b>In this proposal, processes for review are largely within the justice system. The NSW Act allows for broader evidence and submissions to the magistrate to ensure appropriate clinical information for the magistrates consideration – if this is a feature then the proposal is reasonable.</b></p> <p><b>If, however, the NSW model is not adopted and there is limited scope for clinical input then a system that involves a panel of reviewers where this clinical expertise is available is the preference.</b></p> <p><b>The critical issue is that the option adopted must uphold the rights of individuals and provide for consideration of risks to others including nurses when decisions are made to confirm or revoke the dependency certificate</b></p>	<p>Authorised medical practitioner issues dependency certificate which authorises detention for up to 28 days</p> <p>Medical practitioner must apply to magistrate who can confirm or revoke the certificate</p> <p>Other options – decisions made by specialist tribunal, or specified medical officer</p>	<p>Magistrate may make a detention and treatment order  Must be satisfied that the criteria apply, that involuntary treatment is necessary, and must have a certificate of available services from the treatment centre.</p>	<p>Accredited medical practitioner issues dependency certificate which authorises detention for up to 28 days  Medical practitioner must bring person before a magistrate who can confirm or revoke the certificate or extend for up to 3 months from issue of the certificate.</p>
<p><b>Period of detention</b>  <b>This should be based around the clinical evidence. We suggest a minimum of 6 weeks.</b></p>	<p>28 days on dependency certificate (issued by authorised medical practitioner &amp; confirmed by magistrate)</p> <p>Another option – no specified period, and give magistrate discretion</p>	<p>14 days  If person has not been admitted after 7 days, the order lapses  Applicant may, within 7 days of making of order, apply to Magistrate to extend order by 7 days</p>	<p>28 days (may be extended to 3 months)</p>
<p><b>Treatment –</b></p>	<p>Detoxification - best practice policy and</p>	<p>Voluntary treatment must be</p>	<p>Administration of medication must</p>

<p>The legislative requirements should include the collaborative development of a treatment plan (with consumer, carers and relevant clinicians). The <i>Mental Health Act 2000</i> gives guidance.</p>	<p>practice guidelines to be developed Managed in specialised environment with high level medical and nursing support After detoxification &amp; treatment – Queensland Health and Department of Communities will work with NGOs to develop an exit plan to ensure opportunities to find suitable accommodation, employment, health care and other services</p>	<p>promoted over detention Treatment plan required; discharge plan required Best possible treatment based on evidence Least restrictive environment, least intrusive manner Assessment of other conditions. and coordinated treatment</p>	<p>have due regard to possible effects Minimum medication, consistent with proper care should be prescribed, to ensure the person is not prevented from communicating adequately Accredited medical practitioner may give medication he or she thinks fit for treatment of the person’s substance dependence</p>
<p>Access to legal representation – From a human rights perspective consideration needs to be given to this as the proposal gives the justice system a key role – it provides the mechanism to confirm or revoke the order.</p>	<p>Not mentioned in proposal</p>	<p>Person who is subject to application has a right to appear &amp; is entitled to legal representation</p>	<p>Not specified in Act</p>
<p>Access to assistance or advocacy – Experience in Qld with the <i>Mental Health Act 2000</i> showed this was of value to those who had stable caring relationships. Person without support may be left wanting unless a publicly funded option is made available through advocacy groups etc.</p>	<p>Person may nominate an ‘allied person’ to act as advocate during assessment and involuntary treatment</p>	<p>Public advocate must be informed of detention within 24 hours; must arrange to visit person. Nominated person</p>	<p>Person may nominate a primary carer, who must be advised about detention and other events official visitor scheme</p>
<p>Appeal of decisions? Consideration must be given to an appeal process as there is potential in any involuntary system for frivolous and vexatious actions to be taken against individuals</p>	<p>Possibly to Queensland Civil and Administrative Tribunal (QCAT)</p>	<p>Yes, to Magistrates Court</p>	<p>Yes, to Administrative Decisions Tribunal</p>
<p>Other protections Suggest NSW &amp; Vic safeguards here-in are considered</p>		<p>Applicant must check whether a guardian appointed &amp; inform of application for order Person must be examined by senior clinician within 24 hours of admission to review whether criteria for detention apply Must receive statement of rights within 24 hours</p>	<p>Accredited medical practitioner must arrange interpreter for assessment if required Accredited medical practitioner give oral and written explanation of legal rights and entitlements, including appeal</p>

<p><b>Treatment facilities –</b>  <b>To avoid the age-old difficulties about to whom the patient belongs in the health system and which service is responsible for care, there needs to be a formal determination and service agreement about where the medical care and emergent care during detoxification will occur and the staffing and security arrangements.</b></p> <p><b>Our members’ exposure to violence must be a primary consideration in the physical design and fit-out based on CPTED standards for example. There must also be timely access to necessary medical interventions and personnel.</b></p> <p><b>Any policies and procedures must take account of staff safety as well as consumer need.</b></p>	<p>Facility with necessary staff &amp; equipment to address any adverse outcomes from medicated detoxification.          Need secure facility, potentially secure unit or ward in hospital or mental health facility</p>	<p>Treatment centres may be declared by the secretary of health.          Governing body must appoint suitably qualified medical practitioner as senior clinician</p>	<p>Treatment centres may be declared under the Act by the director general of health.</p>
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