

REVIEW OF THE MENTAL HEALTH ACT 1996

Treatment of Patients Working Party – Children & Adolescents

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The purpose of this submission is to identify gaps and make recommendations for legislative change regarding the specific mental health needs of Western Australia's children and adolescents. Currently the Mental Health Act "does not specifically address minors but applies to everyone regardless of age" (Clinician's Guide to the Mental Health Act 1996 2nd Ed 2001, page 1). As a result the rights and special needs of children, defined as being under the age of 18 years are not addressed in this Act. Some of the significant gaps in legislation include the right to:

- Care and protection;
- Appropriately trained clinicians with expertise in child and adolescent development;
- Access to a continuum of services designed to meet the need of children and their family's;
- Consent or not to voluntary admission and/or treatment;
- Be considered a mature minor;
- The involvement of family as appropriate; and
- A formulation which explicitly makes the child's best interests paramount

Therefore as a starting point to addressing the needs of children it is recommended that the Act be informed by *United Nations Convention on the Rights of the Child* (United Nations 1991). This is a legal instrument, which defines the rights of children and also sets out the duties of the State and parents to children. What is relevant here is that this Convention establishes children have the right to:

- be protected from harm;
- take an active part in society;
- express their views and have them taken into consideration; and
- services which meet their needs.

At present Ward 4H at Princess Margaret Hospital admits over 300 children per year either as emergency or planned admissions. Bentley Adolescent Unit admits significantly more. Young people with eating disorders are currently admitted on a regular basis to Princess Margaret Hospital and several other private hospitals in Perth. There are approximately 10 Child and Adolescent Mental Health services across the metropolitan area providing outpatient services to children and their families. The rights of these children and their parents/carer's to services that best meet their needs are not recognised by the Act.

There are several ways in which this could be addressed:

1. via the current Review of the Mental Health Act 1996;
2. Via the current review of the Child Welfare Act; or
3. Via Department of Health policy, either directly through the Office of Mental Health or by individual agencies as they see fit.

In any case, were issues to be addressed by either piece of legislation then there would be ramifications for the other. It is recommended that the needs of children and their family's are so important that the current review of the Mental Health Act reflect this.

The Areas of the Act that I would like to specifically address and make recommendations on include:

- Definitions - please see Dr. Paul Hudman's submission;
- Objects of the Act. Include the *United Nations Convention on the Rights of the Child* (United Nations 1991);
- Involuntary Patients Please refer to Dr. Prue Stone's paper on Voluntary Status and CTO's
- Treatment of Patients See Christine Slattery's paper on Treatment and Consent. Recommend the involvement of legal representation/advocate as necessary. Recommend the creation of a Child Advocate who can act in the child's best interests.
- Council of Official Visitors Recommend that Visitor is appointed who has special knowledge and experience in the area of child and adolescent development dedicated to visiting voluntary and involuntary patients.

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