

MI149573
MO: H/07/07579

Mr Neil Laurie
The Clerk of the Parliament
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Dear Mr Laurie

Thank you for Petition Number 921-07, received by the Queensland Legislative Assembly and forwarded to the office of the Honourable Stephen Robertson MP, Minister for Health on 17 October 2007, regarding the request for the House to consider “*that it be made an offence for a person to force another person to endure mental health care against their wishes. Also, that mental health professionals inform a person of all possible options for management of their care...and in acute circumstances where a person is in a non-communicative state that a person be treated first by a GP, General Hospital or Medical Centre until such a time as they are able to communicate their wishes*”. The Minister has asked me to respond on his behalf.

I can assure you that Queensland Health is committed to providing the highest possible standard of mental health care and that the staff are committed to the delivery of best practice interventions and treatment to mental health consumers.

The *Mental Health Act 2000* (‘the Act’) provides for involuntary assessment and treatment with a mental illness while at the same time safeguarding rights. The Act is underpinned by human rights principles to ensure that:

- to the greatest extent possible, a person’s participation in decisions made about them under the Act;
- any power or function under the Act must be exercised so that a person’s liberty and rights are affected only if there is no less restrictive way to protect the person’s health and safety or to protect others; and
- if the person’s liberty or rights are to be affected, the effect is to be the minimum necessary in the circumstances.

The Act endeavours to ensure that involuntary patients are informed about key decisions relating to their involuntary treatment. The decision for a person to be admitted to an authorised mental health service for involuntary assessment can only be made by a mental health professional. This decision may be made during an examination conducted after a *justices examination order* (JEO) or *emergency examination order* (EEO) has been made.

Any person can apply for a JEO if they are concerned about a person's mental health and the person for whom the order is being made, is not willing or able, to access a mental health assessment voluntarily. Section 28 of the Act states that a magistrate or justice of the peace (JP) may make a JEO relating to a person only if the magistrate or justice reasonably believes:

- the person has a mental illness;
- the person should be examined by a doctor or authorised mental health practitioner to decide whether a *recommendation for assessment* for the person be made; and
- the examination can not be properly carried out unless the order is made.

A JEO does not authorise an involuntary admission to hospital. The JEO does authorise an examination of the person by a doctor or authorised mental health practitioner in order to decide if the person meets the criteria in the Act to be involuntarily assessed in hospital. If the person meets the involuntary assessment criteria, the assessment documents (*request for assessment* and *recommendation for assessment*) are completed and the person is taken to an authorised mental health service.

An EEO can be made by a police officer, ambulance officer or a psychiatrist when strict criteria are met. An EEO authorises a person to be taken to an authorised mental health service and be detained for up to six hours to determine if the assessment documents can be made, by a doctor or authorised mental health practitioner. If assessment documents are not made, arrangements must be made for the person to be returned to where they were taken from, or to a place the person reasonably asks to be taken.

Once admitted to an authorised mental health service for involuntary assessment, an authorised doctor needs to assess the person to decide if the treatment criteria outlined in the Mental Health Act are satisfied. If placed on an Involuntary Treatment Order, involuntary treatment is reviewed by an authorised psychiatrist who must carry out regular assessments as set out in the treatment plan. The Mental Health Review Tribunal carries out independent reviews of all involuntary patients. The details of the person's ongoing treatment are detailed in the patient's treatment plan which is required to be discussed with the patient.

Other safeguards include provisions in the Act for patients to nominate an *allied person* to help the patient express his or her views, wishes and interests relating to the patient's assessment, detention and treatment.

In addition, a patient in an inpatient unit may request to have contact with a Community Visitor from the Community Visitor Program, which is independent from Queensland Health. The Program's role is to safeguard the rights of patients in mental health facilities.

Alternatively, a patient that has concerns about being involuntarily assessed, treated or detained under the Act may make a complaint to the Director of Mental Health or the complaint coordinator in the local district health service. The Health Quality and Complaints Commission, which is independent from Queensland Health also responds to patient complaints about health services.

Furthermore, the development of a highly skilled, professional workforce, utilising evidence-based treatments and policies is a key priority for Queensland Health and as such, Queensland Health has endorsed the *National Practice Standards for the Mental Health Workforce 2002* ('the Practice Standards'), which were developed as part of the National Mental Health Strategy. The Practice Standards aim to build a mental health workforce based on core principles relating to attitudes, knowledge and skills to guide practice and service delivery. Health professionals from a range of disciplines are employed in mental health services in Queensland. The Practice Standards

complement each professional group's discipline-specific standards to promote legal, ethical and accountable practice.

Should you have any queries regarding my advice to you, a Mental Health Act Liaison Officer, Mental Health Branch, will be pleased to assist you and can be contacted on telephone 1800 989 451.

Yours sincerely

KAREN STRUTHERS MP

Parliamentary Secretary to the Minister for Health