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Mental Health Act Review

Department of Health

PO Box 2368

FORTITUDE VALLEY QLD 4006

By email: MHA.Review@health.qld.gov.au

25th June 2015

Dear Colleague,

Re: Mental Health Bill 2015

We welcome and appreciate the opportunity to make a submission on the Mental Health Bill 2015 ("the Bill").

PRELIMINARY CONSIDERATION: OUR BACKGROUND TO COMMENT

The Aboriginal and Torres Strait Islander Legal Service (QLD) Ltd ("ATSILS") provides legal services to Aboriginal and Torres Strait Islander peoples throughout mainland Queensland. Our primary role is to provide criminal, civil and family law representation. We are also funded by the Commonwealth to perform a State-wide role in the key areas of Community Legal Education; and Early Intervention and Prevention initiatives (which include related law reform activities and monitoring Indigenous Australian deaths in custody). As an organisation which, for over four decades, has practised at the coalface of the justice arena, we believe we are well placed to provide meaningful comment. Not from a theoretical or purely academic perspective, but rather from a platform based upon actual experiences. We trust that our submission is of assistance.

SUMMARY OF RECOMMENDATIONS

Recommendation 1: CLAUSE 7 – PERSON TO HAVE REGARD TO PRINCIPLES

Change the words "is to have regard" to read "must have regard".

Recommendation 2: ENSURING CULTURALLY APPROPRIATE SERVICES

Insert provision stating that where it is possible and appropriate in the circumstances, an Aboriginal or Torres Strait Islander Health Worker and/or the Aboriginal Medical Services should be used where providing a service or performing a function under the Act for an Aboriginal or Torres Strait Islander patient.

Recommendation 3: CHAPTER 2, PART 2 – EXAMINATIONS AND RECOMMENDATIONS FOR ASSESSMENT

Insert additional provision in Part 2 which provides that prior to exercising a power under Part 2, the doctor or authorised mental health practitioner must make a reasonable attempt to seek the assistance of:

a) an immediate family member of the person; and
b) if the person is an Aboriginal or Torres Strait Islander, the assistance of an Aboriginal Medical Service where such is available.

Recommendation 4: CLAUSE 63 – LOCATION OF CARE UNIT

Insert additional sub-provision in Clause 63 which provides that the location(s) of the person's immediate family and support network are taken into consideration when deciding on an appropriate inpatient unit of an authorised mental health service.

Recommendation 5: CLAUSE 296 - MAKING POLICY OR PRACTICE GUIDELINES

Include additional subsection to clause 296(1) requiring the Chief Psychiatrist to make a policy about how the principle relating to Aboriginal and Torres Strait Islander people (Principle 5(j)) will be implemented in practice. In other words, create a policy which sets exactly:

1. **when** *the unique cultural, communication and other needs of Aboriginal people and Torres Strait Islanders must be recognised and taken into account; and*

2. **how** *services provided to Aboriginal people and Torres Strait Islanders* [will be provided to ensure that they] *have regard to the person's cultural and spiritual beliefs and practices, and the views of the person's family and significant members of the person's community*.

Recommendation 6: CLAUSE 309(2)(c) – PROHIBITION AGAINST PUBLISHING INFORMATION PROVIDED FOR AN INFORMATION NOTICE

Amend clause 309(2)(c) to also cover the situation where the information is **caused to be published**.

Further, amend clause 309(2)(c) by stipulating a similar prohibition on causing the "republication" of such.

Recommendation 7: CLAUSE 350 – PERSONS AUTHORISED TO TRANSPORT MENTAL HEALTH PATIENT

Insert a provision in clause 350 requiring that where the person is Aboriginal or Torres Strait Islander, the authorised person must be accompanied by an Aboriginal or Torres Strait Islander health worker and/or a health professional from an Aboriginal Medical Service where it is possible and appropriate in the circumstances.

Recommendation 8: CLAUSE 369 – WARRANT FOR APPREHENSION BY POLICE OFFICER

Amend Clause 368 to provide that a police officer acting on a warrant of apprehension must be accompanied by second authorised person from the medical profession wherever such is possible.

Recommendation 9: CLAUSE 580 – PENALTY FOR OFFENCE RELATING TO ILL-TREATMENT

Increase penalty for ill-treating a patient to 200 penalty units or 2 years' imprisonment.

Recommendation 10: CLAUSE 648 - APPOINTMENT OF ASSISTANTS TO COURT

Amend clause 648 to provide where the person before the Mental Health Court is an Aboriginal or Torres Strait Islander, the Court must appoint an Aboriginal or Torres Strait

Islander Elder or respected member of the community (where practicable, from the person's actual community) to provide input into spiritual and cultural customs and lore.

Recommendation 11: CLAUSE 157B (2) – POLICE OFFICER CONSIDERING RISK OF HARM

Amend Clause 157B (2) to mandate that the police officer **must** *consider advice received from a health practitioner about the person in forming a view as to whether there is an imminent risk of injury to a person.*

Recommendation 12: DEFINITION OF FAMILY (SCHEDULE 3)

Define "family" to at least include any of the following relationships:

(a) a relative by blood, marriage, common ancestry, adoption;

(b) a person who is a domestic partner of the other;

(c) someone closely involved in the treatment or care of, or support to a mental health patient;

(d) if the person is of Aboriginal or Torres Strait Islander descent – any person considered a relative in accordance with that person's customary laws, traditions or kinship.

Recommendation 13: CLAUSE 282 - WRITTEN NOTICES TO BE GIVEN TO NOMINATED SUPPORT PERSONS AND OTHERS

Insert additional Sub-Clause 282 (1) which requires the person providing the written notice to also provide the patient's legal representation (if any) with a copy of the notice.

Recommendation 14: CLAUSE 836 – MATTERS TO CONSIDER IN AUTHORISING LIMITED COMMUNITY TREATMENT

Insert additional matter for consideration when authorising limited community treatment under Clause 836 (3):

Where the client is an Aboriginal or Torres Strait Islander, their cultural background, spiritual beliefs and practices and/or connection to country.

Recommendation 15: COMMUNITY EDUCATION TO ACCOMPANY NEW MENTAL HEALTH ACT

We would urge the Department to consider a widespread community education campaign to accompany the revisions of the MHA in order to facilitate some of the changes that need to be made to the mental health system that legislative changes alone will not achieve.

GENERAL COMMENTARY

We commend the central objective of the Bill to improve the lives of the tens of thousands of Queenslanders seeking services from the mental health system each year. To that end, we support the bulk of the proposed changes. Our few concerns are reflected in the following submission.

CLAUSE 7 – PERSON TO HAVE REGARD TO PRINCIPLES

Provision

Cl 7 *In performing a function or exercising a power under this Act, a person is to have regard to the principles stated in sections 5 and 6.*

Recommendation (1)

Change the words "is to have regard" to read "must have regard".

Rationale

The objectives of this Bill demand compliance with the principles stated in sections 5 and 6. The proposed wording of Clause 7 could, however, be read as discretionary. We suggest that the mandatory nature of the provision be clarified to read: *In performing a function or exercising a power under this Act, a person must have regard to the principles stated in sections 5 and 6.*

ENSURING CULTURALLY APPROPRIATE SERVICES

Provision

The Bill neglects to make provision specifically for Aboriginal or Torres Strait Islander Health Workers, or the Aboriginal Medical Services.

Recommendation (2)

Insert provision stating that where it is possible and appropriate in the circumstances, an Aboriginal or Torres Strait Islander Health Worker and/or the Aboriginal Medical Services should be used where providing a service or performing a function under the Act for an Aboriginal or Torres Strait Islander patient.

Rationale

Given the over-representation of Aboriginal and Torres Strait Islander people in the mental health system, the law needs to enshrine practices as well as principles in order to ensure culturally appropriate services. The unique position of Aboriginal and Torres Strait Islander peoples in relation to mental health law and practices cannot be understated. One of the results of the trauma inflicted upon them since British settlement is mental illness in conjunction with disproportionate involvement in the criminal justice system. Evidence of continuing intergenerational effects of the trauma are to be found in:

- the disproportionate percentage and over-representation of Aboriginal & Torres Strait Islander clients in the criminal justice system in general and specifically in the prison system;
- the findings and recommendations from enquiries such as the *Royal Commission into Aboriginal Deaths in Custody,* the *Stolen Generation*, *Little Children are Sacred*, the *Forde* and the Carmody inquiries;
- the higher incidence of mental illness and intellectual disability amongst Aboriginal & Torres Strait Islander detained in facilities[1] and prisons; and
- the compounding effect of the constellation of the above factors.

Aboriginal and Torres Strait Islander peoples continue to be strong in culture and lore which is why other jurisdictions in Australia have legislated for culturally appropriate services. In **Western Australia**, the *Mental Health Act (2014)* provides that to the extent that it is practicable and appropriate to do so, mental health assessments, examinations and treatment of a person of Aboriginal or Torres Strait Islander descent must be conducted and provided in collaboration with Aboriginal or Torres Strait Islander mental health workers,

[1] 50% of the clients detained at the newly established Forensic Disability Service at Wacol are Aboriginal or Torres Strait Islander, including some from remote indigenous communities such as Mornington Island.

and significant members of the patient's community, including elders and traditional healers.[2]

The **Northern Territory** *Mental Health and Related Services Act* provides that the involuntary treatment and care of an Aboriginal and Torres Strait Islander person is to be provided, where possible, in collaboration with an Aboriginal and Torres Strait Islander health practitioner.[3] We would urge the consideration of further measures to encourage culturally appropriate services – as has occurred in other Australian jurisdictions.

CHAPTER 2, PART 2 – EXAMINATIONS AND RECOMMENDATIONS FOR ASSESSMENT

Provision

Part 2 – In the event that a person does not consent to a doctor or authorised mental health practitioner conducting an examination (to decide whether to make a recommendation for assessment), the doctor or authorised mental health practitioner has the power to enter a place to find and examine the person, and detain the person for examination. They may do this with the assistance of anyone including a police officer, and using the force that is necessary and reasonable in the circumstances.

Recommendation (3)

Insert additional provision in Part 2 which provides that prior to exercising a power under Part 2, the doctor or authorised mental health practitioner must make a reasonable attempt to seek the assistance of:

c) an immediate family member of the person; and

d) if the person is an Aboriginal or Torres Strait Islander, the assistance of an Aboriginal Medical Service where such is available.

Rationale

An examining doctor or authorised mental health practitioner's powers in Part 2 could potentially present provoke the person to act out in anger or fear. This is a danger for the

[2] Sections 50, 81 and 189 of the Mental Health Act (2014)(WA).

[3] Section 11 of the *Mental Health and Related Services Act*

person and the examining doctor or authorised mental health practitioner. This risk could never be completely avoided, but it can be reduced.

For many clients, whether Indigenous or non-Indigenous, the involvement of family would be comforting and therefore calming to the client. For Aboriginal or Torres Strait Islander people, the involvement of an Aboriginal or Torres Strait Islander health worker may achieve this as well. The Aboriginal and Torres Strait Islander committee appointed by the Queensland Mental Health Commission should be able to assist with this.

CLAUSE 63 – LOCATION OF CARE UNIT

Provision

Cl 63 – A doctor or authorised mental health practitioner may recommend that [a person in custody under this Act] *… (2) be transported by an authorised person from the person's place of custody to an inpatient unit of an authorised mental health service to receive treatment and care for the person's mental illness.*

Recommendation (4)

Insert additional sub-provision in Clause 63 which provides that the location(s) of the person's immediate family and support network are taken into consideration when deciding on an appropriate inpatient unit of an authorised mental health service.

Rationale

Where alternative inpatient care units are available, the determining factor should be the proximity to family for many obvious reasons reflected in Principle (j) from Clause 6 (Maintenance of supportive relationships and community participation) of this Bill.

CLAUSE 296 - MAKING POLICY OR PRACTICE GUIDELINES

Provision

Cl 296 (1) – the chief psychiatrist must make a policy about each matter listed in the subsections.

Recommendation (5)

Include additional subsection to clause 296(1) requiring the Chief Psychiatrist to make a policy about how the principle relating to Aboriginal and Torres Strait Islander people (Principle 5(j)) will be implemented in practice. In other words, create a policy which sets out exactly:

1. **when** *the unique cultural, communication and other needs of Aboriginal people and Torres Strait Islanders must be recognised and taken into account; and*
2. **how** *services provided to Aboriginal people and Torres Strait Islanders* [will be provided to ensure that they] *have regard to the person's cultural and spiritual beliefs and practices, and the views of the person's family and significant members of the person's community*.

Rationale

We have previously raised the point about ensuring the principles of the Bill are enshrined in practice. Our proposed amendment to clause 296 is one way to achieve this. In particular, there is a crucial need to ensure that health professionals treating Aboriginal or Torres Strait Islander clients note the distinction between thought processes relating to cultural and spiritual matters, and those relating to mental health matters, so that correct diagnoses and interpretations can be made.[4]

CLAUSE 309(2)(c) – PROHIBITION AGAINST PUBLISHING INFORMATION PROVIDED FOR AN INFORMATION NOTICE

Provision

Cl 309(2)(c) - *An application for an information notice* [which contains particular information about relevant patients] *must be accompanied by a statutory declaration by the Applicant* [or their nominee] *stating that they will not publish any of the information*.

Recommendation (6)

Amend clause 309(2)(c) to also cover situation where the information is **caused to be published**.

[4] Westerman, T.G., Psychological Interventions with Aboriginal People. Connect, Health Department of Western Australia, 2002, p. 2. http://www.gtp.com.au/ips/inewsfiles/P2.pdf

Further, amend clause 309(2)(c) by stipulating a similar prohibition on causing the "republication" of such.

Rationale

This amendment offers a greater amount of protection to the patient without affecting the applicant's right to receive an information notice.

CLAUSE 350 – PERSONS AUTHORISED TO TRANSPORT MENTAL HEALTH PATIENT

Provision

Clause 350 identifies which persons are authorised to transport a person from one place to another for any purpose under the legislation. An authorised person must be either a medical professional (including ambulance officer or authorised doctor) or an enforcement officer (including a police officer or corrective services officer).

Recommendation (7)

Insert a provision in clause 350 requiring that where the person is Aboriginal or Torres Strait Islander, the authorised person must be accompanied by an Aboriginal or Torres Strait Islander health worker and/or a health professional from an Aboriginal Medical Service where such is possible and appropriate in the circumstances.

Rationale

In support of this point, we refer above to our ***Rationale*** under **ENSURING CULTURALLY APPROPRIATE SERVICES**.

CLAUSE 369 – WARRANT FOR APPREHENSION BY POLICE OFFICER

Provision

Clause 368 provides that an authorised person may apply to a magistrate for a warrant of apprehension if it is necessary in order to transport a person for examination, assessment, treatment or care. The warrant can empower a police officer (as an authorised person) to

enter a premises in order to locate the person, detain the person with reasonable force if necessary and transport the person to the appropriate health service.

Recommendation (8)

Amend Clause 368 to provide that a police officer acting on a warrant of apprehension must be accompanied by an authorised person from the medical profession where such is possible.

Rationale

In all sectors of the community, a warrant executed by the police commonly evokes a perception that the person detained has committed an offence. We presume that many people who are made the subject of this warrant have disengaged from services because they do not consent or because of an impairment of the mind. They are therefore even more likely to feel intimidated, confused or angry, which potentially places the person at risk of harming themselves or someone else, including the police officer.

The presence of a medical professional is less threatening or intimidating and a medical professional is more likely to be trained or experienced in dealing with someone suffering mental health disturbances. This therefore reduces the risk of the situation escalating to an unsafe level, and is more likely to result in the person consenting to accompanying the authorised persons and force not being needed. Furthermore or in the alternative, involving the medical profession is simply a more compassionate approach and in line with the principles of the Bill, particularly 5(a) being that "a person's right to respect for his or her human worth and dignity as an individual must be recognised and taken into account". A person subject to this warrant should not be made to feel like a criminal.

CLAUSE 580 – PENALTY FOR OFFENCE RELATING TO ILL-TREATMENT

Provision

Under Clause 580 (2) the maximum penalty for ill-treating a patient is 100 penalty units or 1 year's imprisonment. The meaning of ill-treating a patient is defined to include willful abuse,

neglect or exploitation.

Recommendation (9)

Increase penalty for ill-treating a patient to 200 penalty units or 2 years' imprisonment.

Rationale

We note the disparity between penalties for the different offences listed under Part 2 (Offences relating to Patients). For the following offences, the penalty is 200 penalty units or 2 years' imprisonment:-

- wilfully allowing a patient to abscond - section 581(3)
- knowingly helping a patient to abscond - section 581(4); or
- inducing, or knowingly helping, a classified patient, forensic patient or a person subject to a judicial order unlawfully absent– section 582(1)(a)
- knowingly harbouring a classified patient, forensic patient or a person subject to a judicial order who is unlawfully absent - section 582(1)(b)
- wilfully allowing a classified patient, forensic patient or a person subject to a judicial order detained to unlawfully absent – section 582(3)

We submit that the disparity is unwarranted and leads to the unfavourable impression that wilfully abusing, neglecting or exploiting a patient is less serious than offences concerned with helping a patient avoid detention. The vulnerability of mental health patients also makes it imperative that they are protected from the risk of abuse and exploitation.

CLAUSE 648 - APPOINTMENT OF ASSISTANTS TO COURT

Provision

Cl 648 – *The Mental Health Court may appoint a person with appropriate knowledge or experience to assist it in a hearing, including, for example, a person with appropriate communication skills or appropriate cultural or social knowledge or experience.*

Recommendation (10)

Amend clause 648 to provide that where the person before the Mental Health Court is an Aboriginal or Torres Strait Islander person, the Court must appoint an Aboriginal or Torres Strait Islander Elder or respected member of the community (where practicable from the person's actual community), to provide input into spiritual and cultural customs and lore.

Rationale

An Aboriginal or Torres Strait Islander person can provide crucial input on several matters relating to a person, including behaviours they may exhibit or beliefs they may have, family and cultural history, and treatment plans (including their place in the community and on country). This practice would also ensure that the principles of the Bill (specifically, clause 5(g)) are acknowledged and upheld and is line with our previous point on **CULTURALLY APPROPRIATE SERVICES.**

CLAUSE 157B (2) – POLICE OFFICER CONSIDERING RISK OF HARM

Provision

Cl 157B (2) – *For section 609(1)(a)(i), of the* Police Powers and Responsibilities Act 2000, *the police officer may consider advice received from a health practitioner about the person in forming a view as to whether there is an imminent risk of injury to a person.*

Recommendation (11)

Amend Clause 157B (2) to mandate that the police officer **must** *consider advice received from a health practitioner about the person in forming a view as to whether there is an imminent risk of injury to a person.*

Rationale

With respect to section 157B (2), a health practitioner is more appropriately qualified and trained to assess the matters in Clause 157B (1), being where:

(a) a person appears to have—

(i) a serious mental impairment as a result of the effects of drugs or alcohol; or

(ii) a mental illness; and

(b) because of the person's impairment or illness there is an immediate risk of harm to the person; and

(c) one or both of the following apply—

(i) the person requires urgent treatment and care for the impairment or illness;

(ii) an examination of the person may result in a recommendation for assessment being made for the person under the Mental Health Act 2015.

By mandating that a police officer *must* defer to a health practitioner on these matters will most likely lead to better results for mental health patients. It will also avoid putting a police officer in the unenviable and unfair situation of making decisions about a person's mental state when he or she is unqualified to do so, (especially when masked by superimposed considerations such as drug use or intoxication).

DEFINITION OF FAMILY (SCHEDULE 3)

Provision

There is no definition of "family" in Schedule 3.

Recommendation (12)

Define "family" to at least include any of the following relationships:

(a) a relative by blood, marriage, common ancestry, adoption;

(b) a person who is a domestic partner of the other;

(c) someone closely involved in the treatment or care of, or support to a mental health patient; and

(d) if the person is of Aboriginal or Torres Strait Islander descent – any person considered a relative in accordance with that person's customary laws, traditions or kinship.

Rationale

While the proposed Bill includes definitions of "parent" that accommodate the special circumstances of Aboriginal and Torres Strait Islander culture, it does not ensure that the

unique cultural dynamics of Aboriginal and Torres Strait Islander peoples are included in any understanding of family. A definition of family which recognises Aboriginal and Torres Strait Islander customary law or tradition (1) helps ensure that the principles of this Bill are put into practice and (2) makes Queensland law consistent with other Australian jurisdictions. The wider definition of 'family' as reflected above is enshrined in the Northern Territory *Mental Health and Related Services Act* at S.7A (1), in the South Australian *Mental Health Act 2009* as it defines "relative"; and in the *Mental Health Act* 2014 (W.A) at S.281.

S.281 (2) of the WA legislation for example stipulates:

"*For subsection (1), a family member of a person is any member of the person's family, including —*
(a) any of these people, whether the relationship is established by or traced through consanguinity, marriage, a de facto relationship, a written law or a natural relationship —
(i) a spouse or de facto partner;
(ii) a child;
(iii) a step child;
(iv) a parent;
(v) a step parent;
(vi) a foster parent;
(vii) a sibling;
(viii) a grandparent;
(ix) an aunt or uncle;
(x) a niece or nephew;
(xi) a cousin;
and
(b) if the person is of Aboriginal or Torres Strait Islander descent — any person regarded under the customary law, tradition or kinship of that person's community as the equivalent of a person described in paragraph (a)."

Other jurisdictions that specifically define relationships to accommodate Aboriginal or Torres Strait Islander cultural understanding of family include Northern Territory, South Australia and Western Australia. The *Mental Health and Related Services Act* (N.T.) states that a relative of a person who is Aboriginal or Torres Strait Islander includes any person considered such in accordance with customary law or tradition (including Aboriginal customary law or tradition).[5] In South Australia, the *Mental Health Act 2009* provides that a relative of an Aboriginal or Torres Strait Islander person is someone who is considered a

[5] Section 7A of the Mental Health and Related Services Act 2004 (NT)

relative in accordance with that person's customary laws, tradition or kinship.[6] As outlined above, the *Mental Health Act 2014* (W.A.) contains a list of those people who fit within the definition of close family members including in the case of Aboriginal or Torres Strait Islander people, those who fit within the definition in accordance with the customary law, tradition or kinship of that person's community.[7]

CLAUSE 282 - WRITTEN NOTICES TO BE GIVEN TO NOMINATED SUPPORT PERSONS AND OTHERS

Provision

Clause 282 (1) deals with the need for written notices to be passed on to nominated support persons and others. It applies if—

> *(a) a provision of this Act requires any 1 of the following to give a written notice to a patient—*
>
> > *(i) an authorised doctor;*
> >
> > *(ii) an administrator of an authorised mental health service;*
> >
> > *(iii) the chief psychiatrist;*
> >
> > *(iv) the tribunal…*

Recommendation (13)

Insert additional Sub-Clause 282 (1) which requires the person providing the written notice to also provide the patient's legal representation (if any) with a copy of the notice.

Rationale

From our experience, delays often arise in the mental health system because of inadequate lines of communication. It is quite understandable that many patients who are mentally unwell and/or are feeling emotionally distressed, simply forget to pass on important documents to their legal representative (or misplace same altogether). Alternatively, many persons receiving treatment for a mental illness may not have the capacity to understand the document they are being provided with at the time of receipt. These documents are

[6] Section 3 of the Mental Health Act 2009 (SA)
[7] Section 281 of the Mental Health Act 2014 (WA)

crucial to the person understanding the treatment they are being provided, their rights and/or responsibilities, any avenues for challenging a decision made about their treatment, the judicial process involved with their treatment, and other important matters.

CLAUSE 836 – MATTERS TO CONSIDER IN AUTHORISING LIMITED COMMUNITY TREATMENT

Provision

Cl 836 (3) [In authorising limited community treatment] *….the senior practitioner must have regard to the following matters—*

(a) …..the fact that the purpose of limited community treatment is to support the client's rehabilitation by transitioning the client to living in the community with appropriate care and support;

(b) the client's current mental state and intellectual disability;

(c) the client's social circumstances including, for example, family and social support;

(d) the client's response to care and support including, if relevant, the client's response to care and support in the community;

(e) the client's willingness to continue to receive appropriate care and support;

(f) the nature of the unlawful act that led to the making of the applicable forensic order and the amount of time that has passed since the act occurred.

Recommendation (14)

Insert additional matter for consideration when authorising limited community treatment under Cl 836 (3):

Where the client is an Aboriginal or Torres Strait Islander person: their cultural background, spiritual beliefs and practices and/or connection to country.

Rationale

Clause 836 is an amendment to Section 20 (Authorising limited community treatment) of the *Forensic Disability Act 2011.* It is our understanding that the intention of section 20(3) of the *Forensic Disability Act 2011* is to direct the senior practitioner towards considering what is best for the patient (whilst of course holding the safety of the community of highest

regard). In determining what is best for Aboriginal and Torres Strait Islander clients, consideration must be given to the role of cultural and spiritual beliefs, and connection to country and community in the healing process. Research into the contributing causes to mental distress and illness among Aboriginal and Torres Strait Islander people identified colonisation as one of the primary causes, associated with which is socio-cultural dislocation and isolation contributed to by dislocation from lands, kinship groups and family.[8] It follows, that a contributing part of healing for many Aboriginal and Torres Strait Islander people is their spiritual and cultural beliefs, plus the support of their community on country.

COMMUNITY EDUCATION TO ACCOMPANY NEW MENTAL HEALTH ACT

Recommendation (15)

We would urge the Department to consider a widespread community education campaign to accompany the revisions of the MHA in order to facilitate some of the changes that need to be made to the mental health system that legislative changes alone will not achieve.

Rationale

This Bill is commendable in its potential to change community attitudes and perceptions around mental illness with a chance of ameliorating the general sense of fear of people who are mentally unwell and the stigma attached to mental illness. This stigma is destructive to the treatment of all people with mental illness, including Aboriginal and Torres Strait Islander people, who already face discrimination from large sectors of the community. This stigma and discriminatory views are counterproductive to the efforts of patients who are trying to better themselves, as well as the efforts of the health care and justice system.

Our view is that wider public education is required to address the stigma attached to people with a mental illness or intellectual/cognitive disability. Public education needs to address widely-held perceptions of public safety, the health care and criminal justice system's treatment of those with a mental illness or intellectual/cognitive disability, and steps that

[8] Australian Government Department of Health "Ways Forward: National Aboriginal and Torres Strait Islander Mental Health Policy" last updated February 1995.

the community can take to help those who are suffering from a mental illness or intellectual/cognitive disability.

I close by once again thanking the Department for this opportunity to have input into this very important area. If required, we would be only too pleased to provide additional information to the Department.

Yours sincerely,

Shane Duffy
Chief Executive Officer