SUBMISSION TO THE SOUTH AUSTRALIAN LAW REFORM INSTITUTE
MENTAL HEALTH ACT 2009 (SA) REVIEW

FROM AUSTRALIAN NATIONAL OFFICE OF THE CITIZENS COMMISSION ON HUMAN RIGHTS (CCHR)

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BACKGROUND OF THE CITIZENS COMMISSION ON HUMAN RIGHTS

The Citizens Commission on Human Rights (CCHR) is an international non-profit, non-political, non-religious organisation. CCHR was established in 1969 by the Church of Scientology and Professor of Psychiatry the late Dr Thomas Szasz, as an independent body to investigate and expose psychiatric violations of human rights and to clean up the field of mental health. CCHR offers a free public service to those harmed in the mental health system.

CCHR's mission is to eradicate abuses committed under the guise of mental health.

In Australia CCHR was instrumental in exposing the lethal drug and electroshock practice known as "deep sleep treatment" used at Chelmsford Private Psychiatric Hospital and achieving the NSW Royal Commission into Deep Sleep Treatment in 1988 as well as the government inquiry into psychiatric Ward 10B, at Townsville Hospital in 1990.

More recently CCHR has conducted education campaigns to protect children from the trauma of restraint and seclusion, sterilisation (including forced sterilisation), the harm of electroshock and brutality of psychosurgery in various states of Australia.

This included in Western Australia where a draft mental health bill proposed to allow children of any age, to be able to consent to sterilisation if a psychiatrist determined they had the "capacity to consent." No further consent was needed from anyone including parents or a Tribunal. CCHR launched an education campaign to inform parents and the general public including placing half page ads in the main and community newspapers, bulk mailings and many other actions.

As a result of CCHR, other concerned professionals and the general public, there was worldwide condemnation with over 1,000 submissions received by the WA Mental Health Commission. Not only was the proposal to allow children to consent to sterilisation dropped, but sterilisation was completely removed from the *WA Mental Health Act*.

Assisting victims harmed in the psychiatric system is a vital CCHR activity, as is protecting children and ensuring that parental consent is upheld.

CCHR continually takes extensive action to inform parents, professionals, public and governments about the potential dangers of psychotropic drugs for infants, toddlers and children. Every parent has a right to know how a diagnosis is made, be provided with all potential side effects of any psychiatric treatment suggested and be advised of alternatives, which too often does not happen. Fully informed consent is vital for any psychiatric treatment proposed.

Internationally, CCHR is responsible for many hundreds of reforms gained through testimony before legislative hearings, its own public inquiries into psychiatric abuse and its work with the media, law enforcement and public officials.

CCHR does not provide medical or legal advice but works closely with and supports medical doctors and medical practice. Medical drugs and scientific tests are essential for treating and curing disease but the same cannot be said of psychotropic drugs and psychiatric treatment.

If the Law Reform Institute has any questions on this submission or requires further information please contact CCHR on 02 9964 9844 or national@cchr.org.au

SUBMISSION

Introduction

The Citizens Commission on Human Rights (CCHR) welcomes the opportunity to present this fully referenced submission to the South Australia Law Reform Institute. CCHR is sure that you would agree there is nothing more valuable than protecting the most vulnerable members of society.

In June 2021, the World Health Organisation (WHO) released guidelines that lashed out against the coercive psychiatric practices of restraint, seclusion, forced electroshock and involuntary admission and treatment. The United Nations (UN) has also called for a ban on these forced "treatments". The current *SA Mental Health Act* does not protect South Australians from these abusive psychiatric practices. The mental health outcomes of South Australians affected by this law will not improve without an overhaul of this Act.

There is worldwide recognition of the damage that coercive psychiatric practices have caused. The South Australia Law Reform Institute is in a position to greatly assist with the implementation of recommendations from the UN and the WHO. This will involve challenges but CCHR believes South Australians will rise to the occasion.

CCHR fully supports the need for better healthcare for South Australian children and adults but wants to also ensure that funding, (which reached $515 million in 2019/20 in SA – a 20% increase in just 5 years)[1] is not going to be poured into a bottomless pit with consistently declining conditions for vulnerable children and adults who are "treated" under the *SA Mental Health Act*.

Australia's Productivity Commission stated in late 2019, *"Despite the rising expenditure on healthcare, there has been no clear indication that the mental health of the population has improved."* [2] The current *SA Mental Health Act* and harmful psychiatric treatments mandated by this law are exacerbating this situation.

The latest Productivity Commission mental health figures released in 2022 show that results in SA were appalling in 2019/20:

- **56.2% of children aged 0-17, discharged from community based care did not significantly improve.**
- **63.9% of children aged 0-17, over 76% of 18-64 and 69% of 65+ year olds in ongoing outpatient community based care did not significantly improve.**
- **33.1% of patients discharged from public psychiatric facilities/wards either did not significantly improve or had significant deterioration.**[3]

If psychiatric treatments and the *SA Mental Health Act* were working there would be evidence of this in the dramatic reduction of children and adults requiring assistance. No other industry would be allowed such poor performance for money invested with such a lack of accountability. In contrast, money given to other areas of medicine shows noticeable progress, such as improving survival rates from cardiovascular disease over the past 20 years.[4]

The Urgent Need for Change in the *SA Mental Health Act*

The need to improve the *SA Mental Health Act* has long been known by psychiatry with both the United Nations and the World Health Organisation calling for the elimination of coercive psychiatric practices such as restraint, forced electroshock and involuntary treatment.

It appears advising psychiatrists have not told the SA Government and policy makers of international directions to ban coercive psychiatric practices as none of these have been implemented in South Australia:

- **1 Feb. 2013**, the Special Rapporteur on Torture and other cruel, inhuman or degrading treatment or punishment reported on forms of abuse in health care settings that may cross the threshold of being torture or cruel, inhuman or degrading treatment or punishment. He called on states to "*impose an absolute ban on all forced and non-consensual medical interventions*" including the "*non-consensual administration of psychosurgery, electroshock and mind-altering drugs*."[5] [Australia ratified the Convention Against Torture and Cruel, Inhuman or Degrading Treatment or Punishment on 8 Aug 1989.[6]]

- **June 2017**, Professors of psychiatry, Sashi P Sashidharan, and Benedetto Saraceno, former director of the WHO, discussed coercive psychiatry in an editorial published in the internationally acclaimed *British Medical Journal*, "*The rising trend is damaging for patients, unsupported by evidence, and must be reversed*."[7]

- **24 July 2018**, the Annual Report of the United Nations High Commissioner for Human Rights called for the "*elimination of practices such as forced treatment, including forced medication, forced electroconvulsive treatment, forced institutionalisation and segregation*." The same report also called for states to repeal laws that permitted "*coercion and forced interventions, including involuntary hospitalisation and institutionalisation, the use of restraints, psychosurgery, forced medication, and other forced measures*." Including calling for laws that allow for consent by a third party to also be repealed.

- **15 Oct. 2019**, the United Nations Committee on the Rights of Persons with Disabilities report, *Concluding observations on the combined second and third periodic reports of Australia,* directed Australia to "*Prohibit the use of non-consensual electroconvulsive therapy on the basis any form of impairment.*" [Australia also ratified the Convention on the Rights of Persons with Disabilities on 17 July 2008.[8]]

- In **June 2021**, The World Health Organization (WHO) released guidelines that lashed out against coercive psychiatric practices such as restraint, seclusion, forced electroshock and forced detainment and treatment, that it says are "*pervasive and are increasingly used in services in countries around the world, despite the lack of evidence that they offer any benefits, and the significant evidence that they lead to physical and psychological harm and even death.*" It points to the United Nations Convention on the Rights of Persons with Disabilities (CRPD) which in essence, calls for a ban on "*forced hospitalization and forced treatment*."

  The WHO report highlights the fact that coercive practices such as restraint, seclusion, involuntary commitment and treatment occur because "*they are mandated in the*

national [or state] laws of countries." Coercive psychiatric practices continue to be rife in SA.

Despite the challenges to changing laws and treatment paradigms, WHO says "*it is important for countries…to eliminate practices that restrict the right to legal capacity, such as involuntary admission and treatment*."[9]

- **June 2021**, in an interview with *Psychiatric Times*, former UN Special Rapporteur Dainius Pūras, M.D., also addressed the difficulty in achieving the *"elimination of all forced psychiatric confinement and treatment".*

  "*I suggest turning our thinking and action the other way around. Let us assume that each case of using non-consensual measures is a sign of systemic failure, and that our common goal is to liberate global mental healthcare from coercive practices.... If we do not move in this direction, arguments for coercion will continue to be used, and misused*."[10]

As previously mentioned, none of these international directions have been implemented in the *South Australia Mental Health Act*.

We could learn from psychiatry's failings in the US where coercive psychiatric practices are the bedrock of its mental health system. The 2021 WHO guidance quotes Thomas Insell, director of the US National Institute of Mental Health (NIMH) from 2002 to 2015, who candidly admits that after spending more than $20 billion (US) on mental health research, *"I don't think we moved the needle in reducing suicide, reducing hospitalizations, improving recovery for the tens of millions of people who have mental illness*."[11]

RECOMMENDATION: International directions from peak bodies including the UN and WHO must be implemented in the *SA Mental Health Act* to ensure protections for all South Australians.

Electroshock (ECT)

Electroshock (electroconvulsive therapy), the application of hundreds of volts of electricity sent through the brain to create a grand mal seizure can cause severe harm and even death.

Side effects of electroshock include brain damage, permanent memory loss, irregular heart rate and rhythm, bone fractures, dental or oral trauma, worsening of psychiatric symptoms, heart attack, stroke and death.[12]

On 15 Oct. 2019, the United Nations Committee on the Rights of Persons with Disabilities report, *Concluding observations on the combined second and third periodic reports of Australia,* directed Australia to "***Prohibit the use of non-consensual electroconvulsive therapy on the basis any form of impairment***."[13]

Claims that electroshock does not cause brain damage, ignore basic electrical science. When electricity is sent through the brain, it generates heat, increasing cell temperature. Cells can suffer dysfunction, temporary injury, permanent damage or even cell death according to Dr. Ken Castleman, Ph.D., a biomedical engineer who has provided legal testimony in ECT device litigation.[14]

So unwanted and torturous is ECT that one Australian woman forced to undergo electroshock said she has had security guards wheel her down to the treatment room holding her down so she didn't escape. *"I felt like I was being wheeled down to the gas chamber really,"* she said. She would even eat from stashed food to avoid the general anaesthetic and when staff found her food, she resorted to eating grass to avoid the electroshock.[15]

Australian judge, the late Justice John Slattery, overseeing the NSW Royal Commission into Deep Sleep Therapy (1988-1990) determined that ECT without patient consent or after obtaining consent by use of fraud and deceit commits "a trespass to the person" and is "responsible for an assault on them."[16]

Neuroleptic Malignant Syndrome (NMS) is a potentially fatal adverse reaction to antipsychotic drugs resulting in an abnormally high body temperature causing destruction of cell tissue. It is characterized by muscular rigidity, tremor, fever, autonomic nervous system dysfunction and alterations of consciousness. The SA chief psychiatrist guidelines for the use of ECT astoundingly incudes the administration of electroshock on those suffering from this physical side effect, knowing that the person is physically ill and needs competent medical care and knowing ECT can result in ventricular fibrillation (potentially fatal abnormal heart rhythm), cardiac arrest and uncontrolled seizures.[17]

An ECT literature review published in 2017, reviewed more than 90 ECT studies since 2009, which showed studies remain, *"methodologically flawed"* and *"Given the well-documented high risk of persistent memory dysfunction, the cost-benefit analysis for ECT remains so poor that its use cannot be scientifically, or ethically, justified."*

The review found that there is still no evidence that ECT is more effective than placebo for depression or suicide prevention.[18]

Not only is electroshock legal for use on all ages in SA, including on children, pregnant women and the elderly, but it can be given forcibly without patient or parental consent. **Electroshock can be given up to four times in one session to establish how much electricity is needed for a convulsion. This could be done more than once in a course of electroshock. A course is a maximum of 12 shocks–multiple courses can be given.**[19]
[*South Australian Mental Health Act 2009*, s42, s42 (2) (3)]

As far back as 2005, the WHO stated, "There are no indications for the use of ECT on minors, and hence this should be prohibited through legislation."[20] South Australia has never complied. WA and ACT have partly complied banning it on under 14 year olds and under 12 year olds respectively.[21]

If all of this were not bad enough, the current SA law allows for the use of "emergency electroshock," where not even a Tribunal Hearing is held before the electroshock is given.[22]
[*South Australian Mental Health Act,* s42 (6)]

Psychiatry admits it still doesn't know how ECT "works." Victoria's former Deputy Chief Psychiatrist Prof. Kuruvilla George, wrote in an ECT article, *"How does ECT work? This is the million dollar question and the first thing to state is that no one is certain.*"[23]

A 2019 *Freedom of Information Act* request revealed that when the current electroshock machines were approved in Australia in 2004 and 2015, no medical studies proving safety and efficacy were required, provided or relied upon to make the decision to approve their use.[24] Yet, on 19 October 2018, following a lawsuit, Somatics LLC, the manufacturer of the

Thymatron ECT device, issued a warning of "permanent brain damage" in its new risk disclosures.[25]

In September 2021, MECTA Corp., one of two manufacturers of electroshock machines used in Australia, filed for bankruptcy in the US. The company cited lawsuits related to its spectrum electroshock device filed by patients seeking redress over electroshock-caused brain damage and serious memory loss, as the reason for its bankruptcy.[26]

- **In 2020/21 there were 6,182 electroshocks given to South Australians.**[27]

RECOMMENDATION: Electroshock is torture, not therapy and must be banned in the *SA Mental Health Act* for all ages with severe criminal fines and prison terms for its use.

Restraint & Seclusion

Psychiatric restraint is psychiatric abuse and violates basic human rights. Restraint can and does cause death. The use of belts, harnesses, manacles, sheets and straps on a person's body, the use of bodily force or powerful psychotropic drugs to control a person are extremely traumatic and terrifying. Restraint has a deep and lasting effect on someone who is already fragile and vulnerable. It is not therapeutic. The SA chief psychiatrist states the use of chemical restraint has the following risks: "over-sedation, respiratory depression, collapse, head injuries and death."[28]

It is also well-known within psychiatric circles to have zero therapeutic benefits and instead can greatly increase trauma.[29]

The philosophy behind restraint is an ingrained mentality and ongoing psychiatric legacy still in operation in 2022 that stems from psychiatry's earliest days at the horrific mental asylum of Bedlam, that the mentally ill are somehow lesser people and must be forced into brutal treatments.

In 2019, it was reported that SA children were being tied down with nets, taken to psychiatric wards and being locked in seclusion at a rate that was far above the national average.

Prominent SA child psychiatrist Professor Jon Jureidini said in response to this, a "significant proportion" of kids crises "*currently managed with netting, involuntary sedation and seclusion*" could be managed less restrictively given "*appropriate training, support and staffing levels*."[30]

Dr Minh Le Cong who worked for the Royal Flying Doctor Service in Qld, detailed specifics of four of the many restraint deaths that have occurred in Australia. Two of the deaths were linked to the excessive use of the benzodiazepine, midazolam as a chemical restraint. The third person who died was given the antipsychotic olanzapine and then midazolam and the fourth person was physically restrained and given midazolam.[31]

An involuntarily detained patient in Western Australia who repeatedly told staff restraining him to let him go said, "*You are going to kill me,"* moments before he slumped to the ground and died. A post-mortem found significant bruising on his neck and that his death was consistent with cardiac arrhythmia during restraint.[32]

"*When I was given treatment that involved being locked up, sedated [chemical restraint] and controlled, it was really like recreating my worst horrors and calling it treatment. Obviously it*

was about the least helpful thing that could have happened," is how one Australian patient described restraint.[33]

Former National Mental Health Commissioner, the late Ms Jackie Crowe, stated in 2015, *"There is a lack of evidence internationally to support seclusion and restraint in mental health services. There is strong agreement that it is a human rights issue, that it has no therapeutic value, that it has resulted in emotional and physical harm…*"[34]

The June 2021 WHO Guidance calls for an end to restraint and seclusion pointing to the United Nations Convention on the Rights of Persons with Disabilities (CRPD) stating, "*Several other rights of the CRPD, including Freedom from torture or cruel, inhuman or degrading treatment or punishment and Freedom from exploitation, violence and abuse**, also prohibit coercive practices such as** forced admission and treatment, **seclusion and restraint**, as well as the administering of antipsychotic medication, electroconvulsive therapy (ECT) and psychosurgery without informed consent.*"[35]

The 2013 report issued by the United Nations Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment states, *"Furthermore, deprivation of liberty that is based on the grounds of a disability and that inflicts severe pain or suffering falls under the scope of the Convention against Torture. In making such an assessment, factors such as fear and anxiety produced by indefinite detention, the infliction of forced medication or electroshock, the use of restraints and seclusion, the segregation from family and community, should be taken into account.*"[36]

A 2017 NSW review of restraint and seclusion in mental health facilities report stated, ***"It is not unusual for staff to raise concerns that staff and consumer safety will be compromised if seclusion and/or restraint are reduced, but this concern is not supported by the weight of evidence."***[37]

Costs are also increased as the vulnerable child or adult does not recover due to increased trauma.

- **In SA in 2021 there were 439 physical restraint events (bodily force) a 16% increase on the previous year.**
- **There were a further 42 mechanical restraint (e.g. being tied to a bed) instances.**
- **In addition there were 1,291 seclusions in SA in the same year.**[38]

For decades there have been calls to eliminate restraint and seclusion. Both are not therapeutic, should be banned immediately, not merely reduced. The SA chief psychiatrist wants to reduce/eliminate where possible the use of restraint. You do not "minimise or reduce" harming people you immediately stop it.

RECOMMENDATION: UN directions and the 2021 WHO Guidance must be implemented in the *SA Mental Health Act* making mechanical, physical and chemical restraint and seclusion illegal with heavy criminal penalties including for any covert use.

Involuntary Treatment

In addition to the WHO calling for the elimination of "practices that restrict the right to legal capacity, such as involuntary admission and treatment," the United Nations Special

Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment reported to the United Nations on abuse in health care settings, called upon all States to,

> **"*…Impose an absolute ban on all forced and non-consensual medical interventions against persons with disabilities, including the non-consensual administration of psychosurgery, electroshock and mind-altering drugs such as neuroleptics [antipsychotics] for both long-and short-term application.*"**[39]

Despite all the instructions from international peak governments, South Australians are still being involuntarily detained and treated against their will. This not only includes restraint, seclusion and electroshock but also potentially dangerous psychotropic drugs if they are on an involuntary treatment order or a community treatment order.

Psychotropic drugs have more than 70 warnings issued by the Therapeutic Goods Administration (TGA) including for such side effects as, aggression, akathisia (inability to remain motionless), increased blood pressure, diabetes, hallucinations, withdrawal symptoms, heart problems, suicide and death.[40]

- **Seven of these drug warnings are to warn of suicidal behaviour linked to antidepressants.**[41]
- **The TGA has not approved any antidepressant for use in children under 18 years of age for depression.**[42]
- **Australia wide, by December 2019, there were 49,248 adverse drug reaction reports linked to antipsychotics and antidepressants, 1,907 of these were deaths.**[43]

Experts have stated that only 1% to 10% of side effects are reported in Australia.[44] This indicates that the number of serious adverse events related to psychiatric drugs are much higher than reported.

In July of 2022 a major study was released debunking psychiatry's widely promoted "chemical imbalance" in the brain theory. The study authors concluded that "**the huge research effort based on the serotonin hypothesis has not produced convincing evidence of a biochemical basis to depression**" and suggest that **"it is time to acknowledge that the serotonin theory of depression is not empirically substantiated."**[45]

The Productivity Commission advised that:

> "*There has been no significant and sustained reduction in the death rate from suicide over the past decade, despite ongoing efforts to make suicide prevention more effective.*"[46]

In Australia there has been an approximate 60% increase in antidepressant use in young people concurrent with an almost 40% increase in youth suicide since 2008/2009.[47]

The current *SA Mental Health Act* allows for forced electroshock to be given to children under 16 if an application is made to and approved by the Tribunal, no parental consent is needed. Parental rights violations also include psychiatry being able to stop a parent from visiting or communicating to their child if they are involuntarily detained.[48] [*South Australia Mental Health Act*, s4, s42 (1) (c) iii, s48 (2) (a) (b)]

- **In 2021 there were 10,005 involuntary treatment orders (involuntary admissions for forced treatment at a psychiatric facility/ward) including 39 children aged 15 or under.**

- **There were an additional 2,471 community treatment orders where the person was forced to have "treatment" at home.**

- **There has been a 19% increase of forced treatment orders since 2015/16.**[49]

RECOMMENDATION: Involuntary detainment and involuntary treatment are made criminal offences under the *SA Mental Health Act* with criminal fines and prison terms for each instance. Only a Judge should have the power to order the forced detainment of a person.

Psychosurgery

All forms of psychosurgery including deep brain stimulation for mental illness are correctly banned in NSW and the NT for all age groups.[50]

Cutting and burning of the brain as well as deep brain stimulation (DBS), the insertion of electrodes deep into the brain through which an electrical current is sent are legal in SA for anyone aged 16 or over.

Psychosurgery can cause memory loss, irreversible brain damage, bleeding in the brain and post-operative death.[51]

The NSW Ministry of Health commissioned an investigation into the efficacy of DBS during their last *Mental Health Act Review* which concluded,

> *"There is insufficient evidence at this point in time to support the use of DBS as a clinical treatment for any psychiatric disorder."* [52]

Incredibly, the SA law allows for psychosurgery to be given without the consent of the person if a Tribunal approves.[53] [*South Australian Mental Health Act,* s43 (c) ii]

South Australia re-named psychosurgery to "neurosurgery" in the last review of the Act. This is an attempt by psychiatry to hide the true nature of this completely barbaric practice.

RECOMMENDATION: All forms of psychosurgery including any cutting or burning of the brain and deep brain stimulation must be made criminal offences in the *SA Mental Health Act* for all ages with extremely high criminal fines and prison terms for violation of the law.

Sexual Contact & Children in Adult Wards

Despite the Guiding Principles of the Act stating that, "Children and young persons should be cared for and treated separately from other patients as necessary…," psychiatry and mental health workers only have to be "guided" by these Principles. There are absolutely no legal provisions in the Act which rule out children being placed in adult wards or that protect women from being placed in wards with men, placing both women and children at risk. To even consider exposing children to such an environment shows pitiful respect for them and leaves them open to physical and sexual abuse in an environment where there is insufficient

supervision. Paul Mason, former Tasmanian Commissioner for Children and barrister, said that putting children in adult wards should be illegal.[54]

In 2020, Australia's Productivity Commission recommended that, *"State and territory governments should provide child and adolescent mental health beds that are separate to adult mental health wards."*[55]

In 2020 *The Medical Journal of Australia* published an analysis that looked at sexual misconduct notifications/complaints to regulatory authorities for all 15 registered health professions in Australia between 2011-2016. It found that psychiatrists had the highest rate of notifications/complaints alleging a sexual relationship, sexual harassment or sexual assault.[56]

The *SA Mental Health Act* does not mandate that alleged sexual assault of a child or adult by staff must be reported. Western Australia makes a start towards ensuring alleged sexual assault/sexual assault is reported with a $6,000 fine for not reporting in their *Mental Health Act*.[57]

RECOMMENDATIONS: The *SA Mental Health Act* must take measures to protect children by making it illegal to place a child in the same ward as an adult with criminal fines and prison terms for violations of this. ♦ The *SA Mental Health Act* must mandate that men and women have separate wards. ♦ Criminal penalties must be added to the *SA Mental Health Act* for failure to report to the police any alleged sexual assault/sexual abuse of a patient.

Patient Complaints about Psychiatry and Deaths

The devastating results from psychiatric "treatment" are clearly evidenced by the number of deaths and complaints in the SA psychiatric system.

The last thing anyone expects when their loved one goes into a psychiatric facility is for their loved one to die in the psychiatric hospital or soon after. Hospitals should be safe havens where children and adults receive care in a calm environment and recover.

- **In 2020/21 there were 73 deaths reported to the Chief Psychiatrist in SA. 42 of these reported by community health teams.**

- **559 South Australians have died as reported to the Chief Psychiatrist between 2014/15 and 2020/21.**[58]

- **The SA Health and Community Services Complaints Commission received over 320 complaints made by mental health consumers in 2020/21, a 228% increase since 2010/11.**[59]

In December 2019, *The British Medical Journal* (*BMJ*), published a study titled, "Complaint risk among mental health practitioners compared with physical health practitioners: a retrospective cohort study of complaints to health regulators in Australia."[60]

This study was a comparison of the number of complaints received by Australian regulators for psychiatrists and psychologists compared to physicians and allied health practitioners. Regulators providing information were the Australian Health Practitioner Regulation Agency and NSW Health Professional Councils Authority.

An analysis was done of over 8,000 complaints lodged to regulators over 6 years (2011 to 2016). Findings of the study included:

- ***"Mental health practitioners had more than three times the risk of complaints about interpersonal behaviour, such as disrespect, discrimination, threats, or bullying, compared with physical health practitioners."***

- ***"In our study, mental health practitioners had three times the risk of complaint regarding sexual boundary breaches compared with physical health practitioners. High rates of concern about sexual misconduct by psychiatrists and psychologists are a consistent finding in previous studies of complaints, regulatory actions and self-reported behaviour."***

- ***"Psychiatrists were at increased risk of complaints regarding the prescribing of medicines. They are also more likely to prescribe medications to patients who may not have had the opportunity to exercise free and informed choice about their treatment."***[61]

RECOMMENDATIONS: The *SA Mental Health Act* needs to mandate that every death in a psychiatric facility/ward is referred to police for criminal investigation. ♦ The *SA Mental Health Act* require that every child or adult suicide receive a post-mortem examination that includes tests for the presence of psychiatric drugs at time of suicide to give a true picture of the harm caused by psychiatric drugs. ♦ Every mental health complaint received involving negligence or misconduct involving prescription practices contributing to patient harm or death are mandated by the *SA Mental Health Act* to be reported to police for criminal investigation. ♦ *The SA Mental Health Act* also needs to mandate the total number of complaints made to all agencies and psychiatric facilities/wards for psychiatrists is publicly reported along with a breakup of the type of complaint.

Advanced Care Directives (Living Wills)

Advance care directives are a key part of fully informed consent, yet they are not fully legally binding in SA. They can be overridden if a psychiatrist involuntarily detains the person and decides it is "mandatory medical treatment." This includes electroshock and psychosurgery. [*Advance Care Directives Act 2013*, s12 (1) (b), s12, (4) (a); *South Australia Mental Health Act*, s42 (1) (c) ii]

RECOMMENDATION: Advance Care Directives must be made legally binding for psychiatric treatment in the *SA Mental Health Act* without limitation.

Diagnostic and Statistical Manual of Mental Disorders Used to Involuntarily Detain and Treat is Not Based on Science

Mainstream medicine deals with real diseases, such as malaria, bronchitis, hepatitis and heart disease, all which have exact, identifiable physical causes. Psychiatry only deals in "disorders." Disorders are names given to undesirable feelings and behaviour. A disorder does not have identifiable physical causes that can be treated like a genuine disease. While these disorders are frequently referred to as "illnesses" or "diseases" they are not the same thing. This difference sets psychiatry far apart from genuine medicine. It is the diagnosis of these disorders that leads to involuntary detainment, forced psychiatric drugging, restraint, seclusion and electroshock of South Australian children and adults.

Psychiatry's standard "diagnosis manual" used in Australia is the *Diagnostic and Statistical Manual of Mental Disorders (DSM).* It is certainly not a "standard" with its complete lack of scientific basis.

This manual itself covers the complete lack of scientific tests. Examples in *DSM-IV* and *DSM-5* of the lack of scientific tests for schizophrenia:

- ***DSM-IV* for schizophrenia**: "No laboratory findings have been identified that are diagnostic of schizophrenia." (p.305)

- ***DSM-5* for schizophrenia**: "Currently there are no radiological, laboratory or psychometric tests for the disorder." (p.101)

  "There are no objective tests in psychiatry — no X-ray, laboratory, or exam finding that says definitively that someone does or does not have a mental disorder." "I mean, you just can't define it."
  — Allen Frances psychiatrist and former *DSM-IV* Task Force Chairman.[62]

  "*Unlike physical illness, we can't rely on blood tests, brain scans or other biological tests. As a consequence of this lack of diagnostic accuracy, our field relies purely on observation."*
  — Bernard Baune, Professor & Head of Psychiatry at University of Adelaide.[63]

  "Making lists of behaviours, applying medical-sounding labels to people who engage in them, then using the presence of those behaviours to prove they have the illness in question is scientifically meaningless. It tells us nothing about causes or solutions. It does, however, create the reassuring feeling that something medical is going on,"
  — John Read, former senior lecturer in psychology, Auckland University, New Zealand.[64]

None of the above means that children and adults don't have problems, they do and they can be severe. What it does mean is that unlike real medicine, a psychiatric "diagnosis" has no basis in science and is completely subjective. There is no scientific basis to justify the prescribed psychiatric "treatment." The result of a subjective diagnosis for a patient can be even more harmful and terrifying treatments such as restraint, electroshock or even death.

RECOMMENDATION: The *SA Mental Health Act* prohibits the use of the *DSM* in any diagnostic setting and mandates standard, scientific medical testing that proves the existence of any alleged mental illness or mental disorder.

Alternatives, Informed Consent: Providing Real Help

In June 2021, the WHO issued Guidance covered the need for mental health services to widen their focus beyond the biomedical model and assist those in need in a holistic manner rather than make psychiatric drugs the central focus.[65]

The need for a thorough medical check-up: CCHR has long been an advocate for competent non-psychiatric medical evaluation of people with mental problems. Undiagnosed and untreated physical conditions can manifest as "psychiatric symptoms."[66]

All patients should have what is called a "differential diagnosis." The doctor obtains a thorough history and conducts a complete physical exam, rules out all the possible problems

that might cause a set of symptoms and explains any possible side effects of the recommended treatments.

Children and adults have problems in life, and they need help with their problems. Is a child having problems at school because they need tutoring, has their eyesight and hearing been tested, are they getting enough sleep and exercise as well as eating properly? Are they having problems at home or school with peers or teachers or are they simply high IQ and bored? If they have an undiagnosed medical condition manifesting as “psychiatric symptoms,” and the cause is not found and rectified, they could be misdiagnosed as “mentally ill,” potentially prescribed a psychotropic drug and in some cases, involuntarily detained. A psychotropic drug, restraint, seclusion, electroshock or psychosurgery has never and will never solve problems in life.

The cause of the problem can greatly vary from child to child and adult to adult. A thorough investigation is vital. For children and adults who are seriously unwell and need care, hospitals/wards need to be turned into places of proper care. They need access to medical assistance and tests, a safe and restful environment where they are not threatened with forced treatment so they can return home happy and healthy.

Informed Consent: In general medicine the standard for informed consent includes communicating the nature of the diagnoses, the purpose of a proposed treatment or procedure, the risks and benefits of the proposed treatment. This includes the absolute necessity for advising all patients and parents that competent medical supervision by a doctor when withdrawing from psychotropic drugs due to potentially debilitating side effects during withdrawal , and informing the patient of alternative treatments, so they can make an informed, educated choice.

Psychiatrists routinely do not inform patients of non-drug treatments, nor do they conduct thorough medical examinations to ensure that a person’s problem does not stem from an untreated medical condition that is manifesting as a “psychiatric symptom.” Neither do they accurately inform patients of the nature of the diagnoses, which would require informing the patient that psychiatric diagnoses are completely subjective (based on behaviours only) and have no scientific/medical validity (no X-rays, brain scans, chemical imbalance tests to prove anyone has a mental disorder).

Informed consent must be obtained in writing with all major risks represented to ensure it is documented the person has been given all facts. This would include:

- **The right to be provided the scientific/medical test confirming any alleged diagnosis and the right to refute any psychiatric diagnosis that cannot be medically confirmed.**
- **Full disclosure as to the risks of psychiatric treatments must be given.**
- **The right to be told of all available medical alternatives.**
- **The right to choose treatment of one’s choice.**
- **That there are diverse opinions on the medical legitimacy of psychiatric diagnosis.**
- **Fully Informed consent would also include the information that the chemical imbalance in the brain causing their condition is not true: UK psychiatrist, Dr**

Joanne Moncrieff notes that telling patients their behaviour is the result of a chemical imbalance conveys

"the message that we are powerless to change ourselves or our situations. When things go wrong, it persuades us we need a pill to put them right. This approach may appeal to some people, and I am in no way disparaging those who chose to follow it. But it is important that everyone knows how little evidence there is to support it."[67]

- **Patients must have the right to refuse psychotropic drugs documented by international drug regulatory agencies including Australia's Therapeutic Goods Administration, to be harmful and potentially deadly.**

- **Patients must have the right to refuse to undergo electroshock and psychosurgery.**

There are numerous alternatives to psychiatric diagnoses and treatment, including standard medical care that does not require a stigmatising and subjective psychiatric label or a mind-altering drug. The *SA Mental Health Act* should endorse non-drug treatments as alternatives to potentially dangerous psychotropic drugs and psychiatric treatments.

RECOMMENDATIONS: The *SA Mental Health Act* must ensure that thorough and searching physical examinations are completed by a competent medical doctor before any psychiatric opinion or "diagnosis" can be given. ♦ Consent forms need to be re-written to ensure each person is given all the information they need, including all possible side effects, so they are able to give fully informed consent.

RECOMMENDATIONS

1. International directions from peak bodies including the UN and WHO must be implemented in the *SA Mental Health Act* to ensure protections for all South Australians.

2. Electroshock is torture, not therapy and must be banned in the *SA Mental Health Act* for all ages with severe criminal fines and prison terms for its use.

3. UN directions and the 2021 WHO Guidance must be implemented in the *SA Mental Health Act* making mechanical, physical and chemical restraint and seclusion illegal with heavy criminal penalties including for any covert use.

4. Involuntary detainment and involuntary treatment are made criminal offences under the *SA Mental Health Act* with criminal fines and prison terms for each instance. Only a Judge should have the power to order the forced detainment of a person.

5. All forms of psychosurgery including any cutting or burning of the brain and deep brain stimulation must be made criminal offences in the *SA Mental Health Act* for all ages with extremely high criminal fines and prison terms for violation of the law.

6. The *SA Mental Health Act* must take measures to protect children by making it illegal to place a child in the same ward as an adult with criminal fines and prison terms for violations of this. ♦ The *SA Mental Health Act* must mandate that men and women have separate wards. ♦ Criminal penalties must be added to the *SA Mental Health Act* for failure to report to the police any alleged sexual assault/sexual abuse of a patient.

7. The *SA Mental Health Act* needs to mandate that every death in a psychiatric facility/ward is referred to police for criminal investigation. ♦ The *SA Mental Health Act* require that every child or adult suicide receive a post-mortem examination that includes tests for the presence of psychiatric drugs at time of suicide to give a true picture of the harm caused by psychiatric drugs. ♦ Every mental health complaint received involving negligence or misconduct involving prescription practices contributing to patient harm or death are mandated by the *SA Mental Health Act* to be reported to police for criminal investigation. ♦ *The SA Mental Health Act* also needs to mandate the total number of complaints made to all agencies and psychiatric facilities/wards for psychiatrists is publicly reported along with a breakup of the type of complaint.

8. Advance Care Directives must be made legally binding for psychiatric treatment in the *SA Mental Health Act* without limitation.

9. The *SA Mental Health Act* prohibits the use of the *DSM* in any diagnostic setting and mandates standard, scientific medical testing that proves the existence of any alleged mental illness or mental disorder.

10. The *SA Mental Health Act* must ensure that thorough and searching physical examinations are completed by a competent medical doctor before any psychiatric opinion or “diagnosis” can be given. ♦ Consent forms need to be re-written to ensure each person is given all the information they need, including all possible side effects, so they are able to give fully informed consent.

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