

13 January 2017

Research Director
Health, Communities, Disability Services and Domestic and Family Violence
Prevention Committee

via email: hcdsdfvpc@parliament.qld.gov.au

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To the Research Director

Thank you for providing AMA Queensland with the opportunity to give feedback on the *Mental Health Amendment Bill 2016*.

AMA Queensland is the state's peak medical advocacy group, representing over 6,000 medical practitioners across Queensland and throughout all levels of the health system. We have previously advocated publicly on issues of mental health and medical regulation. Our members take a very strong interest in the delivery of mental health given how important this is for many of our most vulnerable Queenslanders.

We believe that the proper purpose of any legislation within the field of mental health is to provide for the treatment of persons having, or believed to have, a mental illness while safeguarding their rights and freedoms. This must be balanced against the rights and freedoms of other persons.

AMA Queensland is supportive of the objectives of this bill so long as it retains an appropriate balance between the needs of patients, especially their need for autonomy and input into treatment, with the health and safety of patients and the community.

In this context, we provide the following three comments.

- *Clause 3* amends section 32 of the *Mental Health Act 2016* (Mental Health Act) to strengthen individual rights and protect personal liberty by specifying the maximum timeframes a person may be detained for the purposes of an examination to decide whether the person should be further assessed, rather than relying on "the period reasonably necessary for the examination". The amendment places an upper limit of one hour on the length of time a person may be detained under an examination authority in a place that is not an authorised mental health service (AMHS) or public sector health service facility (PSHSF). While we are generally supportive of this time limit, we question whether this would be enough time for police to arrive to transport the person if required, especially in some rural areas. We recommend that this be further considered as part of the committee's deliberations on the bill.
- The clause also sets an upper time limit on the cumulative period a person may be detained for examination at an AMHS or PSHF. A person may be detained in an AMHS or PSHF under an examination authority for up to six hours, with the ability to extend this to a period of up to 12 hours if necessary to carry out or finish the examination. AMA Queensland notes that the extended period of up to 12 hours is longer than the current length of time for Emergency Examination Orders (maximum of six

hours). As the current policy in mental health is to respect, to the greatest extent possible, a person's right to self-determination, it is concerning that EEO's could now be used to detain a person for up to half a day. This concern could be ameliorated somewhat in practice by ensuring that appropriate assessment and decision-making processes are set in place so that a 12-hour EEO is the exception and not the norm.

- *Clause 22* amends section 258 to clarify that an authorised doctor must not authorise the use of seclusion for a patient if the total period for which seclusion may be used under that authorisation, when taken together with any actual period of seclusion used for the patient under previous authorisations amounts to more than nine hours in a 24 hour period. Our members have questioned whether this means that they must have the plan ready within 21 hours if the person needs to be kept in seclusion. It would be useful to clarify this with an amendment to the bill to avoid confusion in the future.

We trust this information has been on assistance. If you require further information or assistance in this matter, please contact Mr Leif Bremermann, Senior Policy Advisor, on 3872 2200.

Yours sincerely



Dr Chris Zappala
President
Australian Medical Association Queensland