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Disability Services (Restrictive Practices) and Other Legislation Amendment Bill 2013

Thank you for the opportunity to respond to the *Disability Services (Restrictive Practices) and Other Legislation Amendment Bill 2013*.

AMA Queensland supports the intent of the legislation and it appears to protect the rights of patients whilst providing an adequate level of safety for staff. However, we are conscious the committee may yet decide to recommend changes to the Bill as a result of consultation with other stakeholders. For this reason, AMA Queensland would like to offer the committee its views on restrictive practices and their use on patients.

AMA Queensland wishes to stress that the patient's needs and rights should always be the first consideration when considering the application of restraint. Patients have died or been seriously injured by restraints, although it is acknowledged that patients and staff have also been injured by lack of restraint.

AMA Queensland believes the need for restraint should always be based on individual assessment of the issues. These issues span ethical, legal and medical domains. Key to this decision is finding the balance between:

- a patient's right to self determination;
- protection from harm; and
- the possibility of harm to others.

The medical practitioner providing the patient's care is ultimately responsible for the decision to restrain a patient. However, the decision to use restraints should not occur in isolation. It involves a process of request, assessment, team involvement and consent within an ethical and legal framework. Any decision and plan of care to restrain must be documented in the patient's record.

Underlying causes of aggressive and/or challenging behaviour particularly associated with a recent change in behaviour or function should be thoroughly defined by the attending medical practitioner in partnership with the patient's family (and/or formal or informal carers) and staff. Those causes which are medical, or which may respond to medical interventions such as depression, psychosis and delirium should be considered and treated.

Restraints should only be prescribed where any potential risk or harm caused by the restraint itself is less than the risk of the patient not being restrained. A key consideration when making such decisions is the capacity of the patient and who may provide substitute consent.

Many challenging behaviours can be prevented or minimised through appropriate social and staffing structures and creative, friendly physical environments. When such strategies have failed, and when restraint cannot be avoided, then any restraint should minimise the use of pharmacological or direct physical methods. In practice it is often necessary to manage aggressive and/or challenging behaviours in settings that are less than ideal.

Psychoactive drugs have an important role in the reduction of distressing symptoms and the specific treatment of medical conditions such as anxiety, depression and psychosis. Use of these drugs in such a context does not constitute restraint and they should not be withheld.

There are clinical situations where psychoactive drugs may be prescribed for combined purposes of both a degree of restraint and the reduction of distressing symptoms, and/or specific treatment of medical conditions.

Environmental, pharmacological and physical restraints, singly or in combination, should only be used in the community, in residential settings (including aged care) and in hospitals to facilitate patient care and to assist in the management of patients' aggressive and/or challenging behaviour.

Restraint of a patient for staff convenience or to manage patient workloads is unacceptable. All health and residential care facilities must ensure mechanisms for review and discussion of contentious issues and decisions such as the application of restraint for both the welfare of a patient and the welfare of others.

Patients, families of patients, health care professionals and staff must have freely available provision and access to mechanisms to complain, anonymously if desired, about the usage of restraints without fear of retribution.

Educative Issues Related to the Use of Restraint

AMA Queensland notes that the Bill aims to reduce red tape by amending the definitions of restrictive practices in the original legislation. The Minister notes in her introduction speech that this will reduce "the confusion that service providers have identified around understanding when a restrictive practice is classed as a restrictive practice and, therefore, requires authorisation." AMA Queensland supports this in principle, however we believe that a lesser degree of oversight requires a higher degree of education around the use of restrictive practices.

We believe education about the issues related to restraints should be a fundamental element of training for health professionals and any amendments to this area of the original legislation should ensure that appropriate training is given to health professionals to protect patients who may be subjected to restrictive practices.

Yours sincerely

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