



Introduction of the new Mental Health and Wellbeing Act

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13 Oct 2022

Published by: Jeremy Tran

Last month, the Victorian Government passed the new Mental Health and Wellbeing Act (the **new Act**) in response to the Royal Commission into Victoria's Mental Health System (**Royal Commission**). The new Act brings into effect the recommendations of the Royal Commission and begins the overhaul of Victoria's mental health and wellbeing system. The Minister of Mental Health – Gabrielle Williams stated “*This new Act will transform the way we deliver treatment, care and support for Victorians with mental illness as we build a new more responsive and compassionate mental health system*”. The new Act comes into effect on 1 September 2023 and repeals and replaces the *Mental Health Act 2014* (Vic) (**old Act**).

The Victorian Government has also foreshadowed significant and substantial funding for mental health services.

Russell Kennedy Principal, **Michael Gorton AM**, chairs the government's Advisory Group, which has provided advice to government on the development of the new Act.

Key Reforms in the new Act

The key changes in the new Act are as follows:

Rights-based mental health principles

The new Act applies the obligations of the *Charter of Human Rights and Responsibilities Act 2006* (Vic) to entities and service providers. This is to:

- guide service providers and decision makers to support the dignity and autonomy of people living with mental illnesses;
- set out new Principles for the delivery of services and complaints mechanisms where the Principles have not been met;
- ensure people's involvement in their treatment, care and support;
- recognise the role of families, carers and supporters; and
- ensure the diverse needs and preferences of Victorians are serviced.

Statement of Recognition

The inclusion of the Statement enshrines commitments to Aboriginal self-determination in Victorian government health statutes for the first time.

People who can help



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Protection of Rights

An “opt-out” register is established in the new Act by primary non-legal mental health advocacy service providers. This reflects recommendations from the Royal Commission to increase the uptake of safeguards that

promote supported decision-making and autonomy of people living with mental illness.

Broadened Scope

The new Act broadens the scope of services it governs. For example, oversight of clinical mental health and wellbeing service providers in custodial settings. There is also greater diversity of service delivery with a focus on community-based treatment, care and support.

New Entities

The following new entities and officers have been established under the new Act:

- **Mental Health and Wellbeing Commission (Commission)**
The Commission is primarily responsible for system-wide oversight of the quality and safety of mental health service delivery, advising government on areas of concern and improvement and play a key role in monitoring achievement of some of the Royal Commission's key goals.
- **Regional Mental Health and Wellbeing Boards**
The Regional Boards provide a platform for greater integration across services beyond the mental health and wellbeing system, including both Victorian Government and Commonwealth Government funded services.
- **Regional and Statewide Multiagency Panels**
The Regional Multiagency Panels aims to bring together different service providers to support collaboration and accountability in providing integrated treatment, care and support to this group of consumers. The Statewide Panel is chaired by the Chief Officer for Mental Health and Wellbeing. It will comprise the chairs of each Regional Multiagency Panel with aims of identifying and taking steps to resolve systemic issues relating to the delivery of mental health and wellbeing services
- **Chief Officer for Mental Health and Wellbeing**
The Chief Officer principally develops mental health and wellbeing strategy, policy and guidelines and develop and support the mental health and wellbeing workforce.
- **Youth Mental Health and Wellbeing Victoria (YMHV)**
The YMHV will champion the voice of young people and support and oversee strategic partnerships with service providers for youth mental health.

Compulsory Treatment and Restrictive Interventions

The new Act retains the criteria for compulsory treatment as the old Act. However, there is an independent review being undertaken to review the compulsory treatment criteria and the alignment of relevant legislation. Recommendations to government in 2023 will be made to inform future amending legislation.

The new Act also echoes the Royal Commission's target to eliminate restrictive interventions within 10 years. The new Act continues to regulate restrictive interventions and for the first time chemical restraint.

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Reforms have been made to emergency response to people in crisis by adopting a health led approach. This broadens authorised individuals to include medical practitioners and mental health practitioners who are able to take a person into care.

Limitations of Liability

There are now limitations of liability to individuals who act in good faith and perform functions under the new Act. This will allow for difficult decisions to be made without risk of personal liability.

Key Takeaways

- The new Act shifts the focus towards person-centered care and ensuring the dignity of those receiving mental health services.
- The new Act will continually be reviewed over the coming years to assess and improve the effectiveness of the reforms.
- Service providers should ensure they remain up to date with further guidance, regulations and Government information before the introduction of the new Act.
- New public bodies to oversee mental health services in the community.

How we can help

If you require further information or would like to discuss how the new Act might affect you, please contact [Michael Gorton AM](#) from our [Health](#) team.

Learn more about Russell Kennedy's expertise in the Health sector [here](#).

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