14 May 2021

Hon. Dr Liz Craig
Chair
Health Select Committee
Parliament Buildings
WELLINGTON

By email to: HealthSubmissions@parliament.govt.nz

Tēnā koe Hon. Dr Craig

Re: RANZCP Submission on the amendments to the Mental Health (Compulsory Assessment and Treatment) Bill 2021

Introduction
The Royal Australian and New Zealand College of Psychiatrists (RANZCP) welcomes the opportunity to provide feedback to the Health Select Committee on the proposed amendments to the Mental Health (Compulsory Assessment and Treatment) Bill 2021.

The RANZCP is a membership organisation that prepares doctors to be medical specialists in the field of psychiatry and addiction, supports and enhances clinical practice, advocates for people affected by mental illness and advises government on mental health care.

The RANZCP has been extensively involved in the processes preceding these amendments and contributed extensively to the development of the guidelines underpinning the implementation of the Bill. Please refer to the Submission on the Guideline, that were prepared by Tu Te Akaaka Roa - New Zealand National Committee, working with representatives from the New Zealand Sub-Committee, Faculty of Forensic Psychiatry. This response has been prepared by the New Zealand National Committee and informed by the committees specialising in forensics and addiction psychiatry.

Central to the mahi of RANZCP is the development of best practice standards (e.g. The RANZCP Code of Ethics1; Position Statement 86: Recovery and the Psychiatrist2) which aim to provide psychiatrists with a consistent, shared understanding of concepts relevant to psychiatry and of the practices the RANZCP support within the delivery of mental health care.

The RANZCP’s feedback on the proposed legislation:
The proposed amendments to the draft Bill have strong relevance to the work of psychiatry due to its link with mental health and addiction, particularly in the practice of Forensic Psychiatry.

We acknowledge there is room for improvement when managing those individuals who are retained under the Act, but we argue that solutions to improving these individual’s outcomes must be considered alongside the delivery of mental health services in New Zealand. The mental health-care system is facing significant challenges with regards to funding and resources. We strongly argue that services relating to individuals receiving compulsory treatment will not improve until resources are put towards developing leadership capabilities.
within the sector, providing training including cultural competence, supporting a sustainable workforce and providing adequate inpatient facilities (both acute and rehabilitation) whereby people can be treated, and allowing health professionals the time to work with these challenging individuals. Adequate funding levels for community services, where growth in service demand has exceeded funding for many years, is also a critical component of reducing the need for use of the Mental Health Act.

We note that the most pressing practical issues we raised in our submission on the guidelines related to the proposed amendments remain.

In summary:

- The RANZCP welcome the elimination of indefinite treatment orders and the replacement of these with review and court-sanctioned extensions every 12 months. In 2017, in its submission to the Ministry of Health on the Mental Health Act and Human Rights, the New Zealand Sub-Committee, Faculty of Forensic Psychiatry supported establishing an independent Special Patient Tribunal (SPT) of the nature recommended by the New Zealand National Committee to replace the current SPR (Special Patient Review Panel). The recommendation was that this is a national body, preferably chaired by a judge, and separate from the existing MHRT (Mental Health Review Tribunal), similar to the New Zealand Parole Board structure. There were other suggestions that we put forward that were not progressed.

- The RANZCP welcome clarification of the provisions in law for the use of minimum necessary restraint (explicitly sanctioned by a Special Patient custodian) during transport for the purpose of such reviews.

- We support the proposal (following positive outcomes from trials of the use of audio visual links instituted during COVID-19) to extend the ability to use audio-visual links for examination and assessment and participation by “a party, the patient, counsel, a witness and the presiding District Court Judge” at hearings - subject to full consent. Additionally, as with the successful introduction of audio-visual technology, we recommend that the provision whereby under COVID-19 Registrars appropriately undertook Section 10 Assessments, that this provision could also be carried forward.

- We note the clarification and changed terminology referring to the role of ‘Health practitioner’ / ‘clinician’, ‘medical assessment’, ‘medical certificate’ throughout the act to now refer to ‘mental health practitioner’ and ‘mental health assessment’, or ‘certificate’ within the act. Importantly, nurse practitioners and registered nurses with mental health in their scope of practice are now specifically designated as mental health practitioners under the act. These changes were signalled in the initial Cabinet paper, though the range of ‘suitably qualified practitioners’ was not specified. Designation of roles and tasks which may now be undertaken by non-medically qualified (though regulated) practitioners may need further detailed regulatory review, ensuring such tasks do in fact fall within scopes of practice.

- Key recommendations from the RANZCP submission to the Mental Health Act: Human Rights that intersect with the current consultation do not appear to have been adopted here. These perspectives may, however, have been better incorporated to the Mental Health Act Guidelines published September 2020, and the Human Rights and the Mental Health (Compulsory Assessment and Treatment) Act 1992, which offers guidance to thinking about and applying a human rights approach and supported decision-making when implementing the Act.
• We believe careful consideration must be given to unintended consequences when revising compulsory treatment provisions - noting this may result in a greater number of suicides from those who are very unwell.

The RANZCP additionally comment that:
Optimal service delivery requires well-funded services with good liaison to acute general psychiatry in all DHBs. The well-documented workforce shortage issues have the potential to impact on the operation of the Bill. We note that the review of the Act and how it interfaces with human rights must be considered alongside the current societal views and attitudes to people living with mental health issues. Reframing the rights of those with mental illness could remain academic if public opinion is not aligned with changes around compulsory treatment. The RANZCP contends that people living with mental illness continue to experience stigmatisation and discrimination and that any changes to the Act would need to be supported by a well-developed and targeted public health strategy to educate the public about the nature of mental illness, the Act and understanding their rights.

The RANZCP wishes to speak to our submission on the proposed amendments where they relate to our submissions on the guidelines and look forward to discussing the issues raised.

If we can be of further assistance, please contact the National Manager, New Zealand, Rosemary Matthews who supports the New Zealand based Committees. Rosemary can be contacted on 04 4727 265 or by email rosemary.matthews@ranzcp.org.

Nāku, noa, nā

Dr Mark Lawrence, FRANZCP
Chair, Tu Te Akaaka Roa - New Zealand National Committee

References