

From the President's Office
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28 June 2019

Legal and Regulatory Services Branch
NSW Ministry of Health
Locked Bag 961
North Sydney NSW 2059

By email: NSWH-LegalMailhealth.nsw.gov.au

Re: Draft Mental Health Regulation 2019

Thank you for the opportunity to make a submission regarding the Draft Mental Health Regulation 2019. We acknowledge that the consultation includes psychosurgery for the treatment of epilepsy, as well as carers and involvement in Mental Health Review Tribunal hearings relating to forensic patients.

Psychosurgery for the treatment of epilepsy

AMA (NSW) recognises that psychosurgery has long been recognised and allowed for the treatment of Parkinson's diseases, and that the 2013 Regulation also allows psychosurgery to be carried out to treat Gilles de la Tourette syndrome, chronic tic disorder, tremor and dystonia. We also acknowledge that the Draft Regulation proposes to extend the conditions that can be treated by psychosurgery to include epilepsy.

AMA (NSW) understands the definition of psychosurgery to mean:

- (a) the creation of 1 or more lesions, whether made on the same or separate occasions, in the brain of a person by any surgical technique or procedure, when it is done primarily for the purpose of altering the thoughts, emotions or behaviour of the person, or
- (b) the use for such a purpose of electrodes within the brain to produce such a lesion or lesions, whether on the same or separate occasions, or
- (c) the use on 1 or more occasions of electrodes within the brain primarily for the purpose of influencing or altering the thoughts, emotions or behaviour of a person by stimulation through the electrodes without the production of a lesion in the brain of the person,

but does not include a technique or procedure carried out for the treatment of a condition or an illness prescribed by the regulations for the purposes of this definition.

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As we understand the current legislation, the ban on psychosurgery applies to all patients, not just mental health patients or for mental health treatment, unless the procedure the psychosurgery is used to treat is listed in the regulations.

We understand and support the intention of the proposed changes to the Draft Mental Health Regulation, which would be to facilitate the treatment of epilepsy with psychosurgery. We also note that deep brain stimulation is a recognised surgical therapy in the treatment of epilepsy.

However, we are concerned that the current regulations regarding psychotherapy may be causing delays in treatment for conditions that use mainstream procedures that fall under the psychosurgery definition.

We suggest NSW Health review the definition of psychosurgery, so that recognised therapies are not excluded with the intention of limiting delays for treatments that are no longer considered experimental.

Carers and involvement in Mental Health Review Tribunal hearings relating to forensic patients

AMA (NSW) supports changes to the Draft Regulation which would facilitate carers' involvement in Mental Health Review Tribunal hearings relating to forensic patients, subject to the individual forensic patient's consent, and in situations whereby the forensic patient had the mental capacity to provide their consent.

Yours sincerely,



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AMA (NSW) President

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