

WESTERN AUSTRALIA

# LEGISLATIVE COUNCIL

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## AMENDMENTS AND SCHEDULES

Supplementary Notice Paper No. 41  
Issue No. 1

THURSDAY, 14 AUGUST 2014

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### *MENTAL HEALTH BILL 2013 [41-2]*

When in committee on the *Mental Health Bill 2013*:

#### Clause 4

**Minister for Mental Health:** To move –

1/4 Page 4, lines 16 and 17 — To delete “mental health practitioner;” and insert —  
  
other health professional;

**Minister for Mental Health:** To move –

2/4 Page 6, lines 7 to 11 — To delete the lines and insert —

*involuntary patient* has the meaning given in section 21(1);

*involuntary treatment order* has the meaning given in section 21(2);

#### Clause 28

**Minister for Mental Health:** To move –

3/28 Page 25, line 30 — To delete “referral” and insert —  
  
order

**Minister for Mental Health:** To move –

4/28 Page 25, line 31 — To delete “, because of the person’s mental or physical condition,”.

**Minister for Mental Health:** To move –

5/28 Page 26, lines 19 and 20 — To delete “, because of the person’s mental of physical condition,”.

**Minister for Mental Health:** To move –

6/28 Page 27, lines 10 and 11 — To delete “the person’s psychiatrist” and insert —

a health professional who is currently providing the person with treatment

**Clause 29**

**Minister for Mental Health:** To move –

7/29 Page 28, line 6 — To delete “because of the person’s mental or physical condition,”.

**Clause 34**

**Minister for Mental Health:** To move –

8/34 Page 32, line 7 — To delete “the inpatient’s psychiatrist” and insert —

a health professional who is currently providing the inpatient with treatment

**Clause 52**

**Minister for Mental Health:** To move –

9/52 Page 42, line 21 — To delete “the person’s psychiatrist” and insert —

a health professional who is currently providing the person with treatment

**Clause 53**

**Minister for Mental Health:** To move –

10/53 Page 43, line 17 — To delete “the person’s psychiatrist” and insert —

a health professional who is currently providing the person with treatment

**Clause 58**

**Minister for Mental Health:** To move –

11/58 Page 47, line 9 — To delete “the person’s psychiatrist” and insert —

a health professional who is currently providing the person with treatment

**Clause 59**

**Minister for Mental Health:** To move –

12/59 Page 48, line 20 — To delete “the person’s psychiatrist” and insert —

a health professional who is currently providing the person with treatment

**Clause 62****Minister for Mental Health:** To move –

13/62 Page 50, lines 24 and 25 — To delete “, because of the person’s mental or physical condition,”.

**Minister for Mental Health:** To move –

14/62 Page 51, lines 6 and 7 — To delete “, because of the person’s mental or physical condition,”.

**Minister for Mental Health:** To move –

15/62 Page 51, line 25 — To delete “the person’s psychiatrist” and insert —

a health professional who is currently providing the person with treatment

**Clause 63****Minister for Mental Health:** To move –

16/63 Page 52, line 16 — To delete “because of the person’s mental or physical condition,”.

**Clause 70****Minister for Mental Health:** To move –

17/70 Page 56, line 14 — To delete “the person’s psychiatrist” and insert —

a health professional who is currently providing the person with treatment

**Clause 126****Minister for Mental Health:** To move –

18/126 Page 95, lines 22 to 28 — To delete the lines and insert —

- (c) the supervising psychiatrist reasonably believes that, despite the steps that have been taken, the non-compliance is continuing and that, if the non-compliance continues, there is —
  - (i) a significant risk to the health or safety of the involuntary community patient or to the safety of another person; or
  - (ii) a significant risk of serious harm to the involuntary community patient or to another person; or
  - (iii) a significant risk of the involuntary community patient suffering serious physical or mental deterioration.

**Clause 129****Minister for Mental Health:** To move –

19/129 Page 98, after line 4 — To insert —

- (5) The making of a transport order under subsection (2) is an event to which Part 9 applies and the practitioner who makes the order is the person responsible under that Part for notification of that event.

**Clause 133****Minister for Mental Health:** To move –

- 20/133 Page 102, lines 3 and 4 — To delete “because of the involuntary community patient’s mental or physical condition,”.

**Clause 212****Minister for Mental Health:** To move –

- 21/212 Page 155, after line 9 — To insert —

- (2) A person is not secluded merely because the person is alone in a room or area that the person is unable to leave because of frailty, illness or mental or physical disability.

**Clause 227****Minister for Mental Health:** To move –

- 22/227 Page 165, after line 17 — To insert —

- (2A) A person is not being physically restrained merely because the person is being provided with the physical support or assistance reasonably necessary —
- (a) to enable the person to carry out daily living activities; or
  - (b) to redirect the person because the person is disoriented.

**Clause 253****Minister for Mental Health:** To move –

- 23/253 Page 185, line 24 — To delete “\$15 000” and insert —

\$24 000

**Clause 317****Minister for Mental Health:** To move –

- 24/317 Page 226, line 22 — To delete “who is” and insert —

and is

**Minister for Mental Health:** To move –

- 25/317 Page 226, after line 24 — To insert —

- (e) a person who is being paid through a funding arrangement with government to provide free advocacy services and is representing a person who has, or may have, a mental illness or a carer of a person who has, or may have, a mental illness.

**Clause 328****Minister for Mental Health:** To move –

- 26/328 Page 234, lines 13 and 14 — To delete the lines.

**Clause 337****Minister for Mental Health:** To move –

27/337 Page 243, line 29 — To delete the line and insert —

so many of those people as the Director considers appropriate.

**Clause 360****Minister for Mental Health:** To move –

28/360 Page 262, line 29 — To delete “section 249(1)(a).” and insert —

section 249(1)(a) or (b) or (3).

**Minister for Mental Health:** To move –

29/360 Page 263, lines 4 and 5 — To delete “section 249(1)(a); and” and insert —

section 249(1)(a) or (b) or (3), as the case requires; and

**Clause 361****Minister for Mental Health:** To move –

30/361 Page 263, line 19 — To delete “section 249(1)(a); and” and insert —

section 249(1)(a) or (b) or (3); and

**Clause 393****Minister for Mental Health:** To move –

31/393 Page 282, lines 19 to 22 — To delete the lines and insert —

- (b) if the proceeding relates to an application made under section 390 and the applicant is not the involuntary patient — the applicant; and

**Clause 397****Minister for Mental Health:** To move –32/397 Page 284, line 27 — To delete “*order* —” and insert —*order*) that is or was in force —**Clause 398****Minister for Mental Health:** To move –

33/398 Page 285, line 6 — To insert after “order is” —

or was

**Clause 400****Minister for Mental Health:** To move –**34/400** Page 286, line 24 — To delete “patient;” and insert —

patient or the person who was the subject of the treatment order;

**Minister for Mental Health:** To move –**35/400** Page 286, line 27 — To delete “patient;” and insert —

patient or of the person who was the subject of the treatment order;

**Minister for Mental Health:** To move –**36/400** Page 286, after line 30 — To insert —

- (2) An application cannot be made under section 398(1) in respect of a treatment order that ceased to be in force more than 6 months ago unless, in the Tribunal’s opinion, the applicant shows good reason for the delay.

**New Clause 400A****Minister for Mental Health:** To move –**37/NC400A** Page 286, after line 30 — To insert —**400A. Parties to proceeding**

The parties to a proceeding under this Division are —

- (a) the involuntary patient or the person who was the subject of the treatment order; and
- (b) if the proceeding relates to an application made under section 398(1) and the applicant is not the involuntary patient or the person who was the subject of the treatment order — the applicant.

**Clause 401****Minister for Mental Health:** To move –**38/401** Page 287, line 3 — To insert after “to be” —

or to have been

**Minister for Mental Health:** To move –**39/401** Page 287, line 4 — To insert after “order is” —

or was

**Minister for Mental Health:** To move –  
**40/401** Page 287, line 5 — To insert after “been” —

or was

**Minister for Mental Health:** To move –  
**41/401** Page 287, line 14 — To insert after “been” —

or were

#### **New Clause 401A**

**Minister for Mental Health:** To move –  
**42/NC401A** Page 287, after line 15 — To insert —

#### **401A. Discretion not to decide on validity of treatment order no longer in force**

- (1) In this section —  
*question of law* includes a question of mixed fact and law.
- (2) The Tribunal is not required to decide whether a treatment order that was in force was valid or invalid, but may do so if satisfied that the matter raises —
  - (a) a question of law; or
  - (b) a matter of public interest.

#### **Clause 404**

**Minister for Mental Health:** To move –  
**43/404** Page 288, lines 14 to 16 — To delete the lines and insert —

- (b) if the applicant is not the long-term voluntary inpatient — the applicant; and

#### **Clause 409**

**Minister for Mental Health:** To move –  
**44/409** Page 290, line 31 — To delete the line and insert —

- (b) the applicant; and

#### **Clause 416**

**Minister for Mental Health:** To move –  
**45/416** Page 294, line 9 — To delete the line and insert —

- (b) the applicant; and

**Clause 426****Minister for Mental Health:** To move –

46/426 Page 298, lines 26 and 27 — To delete the lines.

**Clause 431****Minister for Mental Health:** To move –

47/431 Page 300, lines 16 to 18 — To delete the lines and insert —

- (b) if the applicant is not the person who made the nomination — the applicant; and

**Clause 433****Minister for Mental Health:** To move –

48/433 Page 301, lines 10 and 11 — To delete the lines and insert —

- (b) if the applicant is not the person whose rights it is alleged are affected — the applicant; and

**Clause 518****Minister for Mental Health:** To move –

49/518 Page 346, after line 20 — To insert —

- (4A) The Chief Psychiatrist cannot give the psychiatrist a direction under subsection (4)(b) to provide the patient with specified treatment unless the Chief Psychiatrist gives the psychiatrist a reasonable opportunity to withdraw from being the patient’s psychiatrist.

**Clause 575****Minister for Mental Health:** To move –

50/575 Page 381, line 26 — To delete “332(7),” and insert —

332(7) and (8),

**Clause 582****Minister for Mental Health:** To move –

51/582 Page 387, line 12 — To insert after “charge” —

in good faith

**Minister for Mental Health:** To move –

52/582 Page 387, line 22 — To delete “section 227(2) and (3),” and insert —

section 227(2) to (6),



**Schedule 2****Minister for Mental Health:** To move –

53/S2 Page 393, in the Table, after row 10 — To insert —

s. 129(5)	The making of a transport order under s. 129(2)	The practitioner who makes the order
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