



Caitlin Dalcortivo
Office of the Chief Psychiatrist
Level 3, 2-6 Bowes Street Phillip ACT 2606, Australia
caitlin.dalcortivo@act.gov.au

Dear Ms Dalcortivo,

RE: Review of the Draft of The ACT Charter of Rights for People Experiencing Mental Illness or Mental Disorder

The Health Care Consumers' Association (HCCA) provides a voice for consumers on local health issues and also provides opportunities for health care consumers in the ACT to participate in all levels of health service planning, policy development and decision making. HCCA involves consumers through consumer representation, consultations, community forums, and information sessions about health services and conducts training for consumers in health rights and navigating the health system.

HCCA welcomes the opportunity to provide input into The ACT Charter of Rights for People Experiencing Mental Illness or Mental Disorder (the draft MH Charter). We recognise the importance of this document in helping to develop a shared understanding of the rights of consumers between consumers, carers and/or nominated persons and staff.

The Australian Charter of Healthcare Rights¹ (the HR Charter) is an important document that defines the overall rights of consumers accessing health care. This applies to those seeking treatment for mental health issues as well as those seeking treatment for other health conditions. Given this and the intended poster format of the draft MH Charter, it is important that the proposed draft MH Charter clarify those rights that are in addition to, and specific to, those receiving treatment for a mental illness or disorder in the ACT, rather than reiterating those covered by the HR Charter.

We are disappointed with the document in its current form as it does not accurately acknowledge the situation for consumers receiving mental health care, particularly for those who are under mandatory orders. The document in its current format also does not use consistent terminology or reflect the full rights of consumers as laid out in the ACT *Mental Health Act 2015*. Nor does it reflect the work done previously in the existing ACT Charter of Rights for People who experience Mental Health Issues². As the document provided is intended as a poster, it is also important that the final text be in easy English or have an easy English version readily available.

Health Care Consumers' Association

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ACT Charter of Rights for People who experience Mental Health Issues

The ACT Charter of Rights for People who experience Mental Health Issues³(the original MH charter) was launched in 2011 and represented a strong collaboration between consumers, carers, and ACT Health. While the document requires some updating to bring it in line with the full rights of consumers as laid out in the ACT *Mental Health Act 2015*, the core foundation remains strong. We recommend using this original charter as the starting point, rather than creating a whole new charter from scratch.

ACT Mental Health Act 2015

Any new draft MH charter must be clear about which rights are legally enforceable under the Act and which are simply statements of values or non-enforceable aspirations. For example, the assumption of decision-making capacity is mentioned in the new draft MH charter and like the HR Charter, it is not generally a statement of legally enforceable rights. However, the assumption of decision-making capacity is covered under the Act and is a legally enforceable right. This also applies to several other areas mentioned in the new draft MH charter such as Advance Agreements, Advance Consent Directions and the role of a consumer's carer or nominated person. There are also other important factors such as the right to appeal mandatory orders with ACAT and the right to raise concerns with the Official Visitors. While these are touched upon in a fashion within the rights list, it is not made clear that they are actually enforceable rights.

On this basis, we have not provided specific comments on the detail of the draft of The ACT Charter of Rights for People Experiencing Mental Illness or Mental Disorder. We did receive detailed feedback on the document from a number of our members. We would welcome an opportunity to meet with your team to discuss our feedback.

We are happy to discuss our submission further. Please contact Anna Tito on annatito@hcca.org.au.

Yours sincerely,



Darlene Cox
Executive Director
Health Care Consumers' Association
30th October 2020

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¹ Australian Commission on Safety and Quality in Health Care. *Australian Charter of Healthcare Rights*. (2019) <https://www.safetyandquality.gov.au/consumers/working-your-healthcare-provider/australian-charter-healthcare-rights> [Accessed 16/10/2020]

² ACT Government, Health. *ACT Charter of Rights For People Who Experience Mental Health Issues*. (2011). <https://www.health.act.gov.au/services-and-programs/mental-health/charter-rights> [Accessed 16/10/2020]

³ Ibid.

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