



## **POLICY STATEMENT 7**

### **INVOLUNTARY DETENTION AND TREATMENT**

#### **Background**

The Network acknowledges that there are circumstances in which people with a mental illness may need to be detained against their will under mental health legislation within Australia. Involuntary treatment may be necessary in circumstances where a person is deemed unable, because of the severity of their illness, to consent to treatment. The Network believes that in these circumstances the rights of persons with a mental illness must be respected to the greatest extent possible. This includes the right to choice of treatment in the private system.

There are restrictions in the majority of Australian jurisdictions which do not allow private psychiatric hospitals to detain involuntary patients. Currently only three states, South Australia, Queensland and Western Australia, have provision to allow involuntary detention in private hospitals. Of these three states, it is only in South Australia and Queensland where people are currently involuntarily detained. Outside these three jurisdictions, people with private health insurance who are involuntary admissions under their respective State or Territory Mental Health Acts, are admitted and treated in the public sector (including closed wards). There is no choice of care for these consumers, even though they hold private health insurance.

The Network believes that privately insured consumers should have the right to choose treatment in the private system, even in cases of involuntary treatment, ie. as detained consumers in private hospitals with psychiatric beds. The Network believes that there must be acceptance by State and Territory Governments, private hospital providers and health insurers that this is a legitimate treatment option. For this to take place, there is a need for legislative change as well as private hospitals to have in place the infrastructure and funding models to support it where required.

The Network believes that Advance Directives may be useful in allowing consumers to identify their choice of facility in situations of involuntary detention and treatment.

#### **Policy**

1. That urgent review of current State and Territory Mental Health Acts, licensing and any other requirements be undertaken to address the impediments that prevent involuntary admissions to appropriate settings in the private psychiatric hospital-based sector.
2. That funders and providers of private mental health services consider that privately insured consumers have a legitimate right to choose treatment as detained consumers within the private sector with infrastructure and funding models to support consumer choice.
3. That legislative change is required to those jurisdictions in which involuntary detention within private psychiatric hospitals is precluded.
4. That there is an urgent need for the development of one National Mental Health Act for Australia to ensure continuity of care between States and Territories.

***Policy approved: February 2013***  
***Policy to be reviewed: February 2015***