

Oral presentation

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Comparison of mental health legislation for involuntary treatments across the Commonwealth

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from WPA Thematic Conference. Coercive Treatment in Psychiatry: A Comprehensive Review
Dresden, Germany. 6–8 June 2007

Published: 19 December 2007

BMC Psychiatry 2007, 7(Suppl 1):S43 doi:10.1186/1471-244X-7-S1-S43

This abstract is available from: <http://www.biomedcentral.com/1471-244X/7/S1/S43>

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Background

In order to inform law reform, a method was developed for comparing the legal criteria for involuntary admission and treatment against current consensus guidelines, and used to analyze mental health legislation in Commonwealth countries.

Methods

World Health Organization (WHO) and Council of Europe (CoE) guidance on the desirable components of mental health legislation were used to develop standards for criteria for involuntary admission and treatment. The standards include the presence of appeal or review procedures, conditions included/excluded under the remit of the law, and thresholds for risk and incapacity that would legitimize involuntary treatment. Mental Health Acts from a range of high and low resource Commonwealth jurisdictions were rated against the criteria. Instances where current law falls short of the guidelines were noted, as were examples of good practice that could be used as models for law reform.

Results

The analysis included 32 Acts from Asia, Africa, Australasia, the Caribbean, Europe and North America, enacted between 1895 and the present decade. Of these, 13 excluded intellectual disability as a reason for involuntary treatment, 11 excluded substance misuse, and 3 excluded types of personality disorder. The number of Acts meeting standards set by the WHO and CoE were: review procedures (WHO) 0, (CoE) 23; diagnostic threshold (WHO & CoE) 13, incapacity threshold (WHO) 10, (CoE) 32; risk

threshold for detention (WHO) 21, (CoE) 18; risk threshold for treatment (WHO) 8, (CoE) 17.

Conclusion

Within the Commonwealth, there is considerable variation in the criteria used for involuntary admission and treatment. Widespread deviation from consensus guidelines raises the possibility that involuntary admission and treatment may be used inappropriately. The adoption of new laws based on existing legislation which meets these standards could reduce this risk.