Opening Statement of the Irish Hospital Consultants Association (IHCA) to the Sub-Committee on Mental Health – Tuesday, 8th February 2022

I would like to thank you Chair and your Committee colleagues for the opportunity to join you in the Pre-Legislative Scrutiny of the Mental Health (Amendment) Bill. The Association represents around 95% of all hospital consultants working in Ireland's acute hospitals and mental health services including Psychiatrists.

The pandemic has exposed the cracks in the public hospital and mental health services. Our mental health services are at breaking point due to existing large capacity deficits combined with significantly increased demand for treatment impacted by Covid-19. This has rightly brought a renewed focus on the urgent need to dedicate increased funding and resources for the provision of more timely and safe, quality mental health services.

Consultant Psychiatrists are committed to the provision of expert medical care to patients with moderate to severe mental illness. We appreciate the opportunity to discuss our views on some of the proposed changes in the Bill and wish to ensure that the proposed legislation will be in patients' best interest. We are concerned that some of the proposed changes, if included in the legislation, would give rise to unintended negative consequences for patients, their families, and the provision of care. Some of our concerns are as follows.

1. Involuntary Admissions (Section 9)

Involuntarily detention in an approved centre is a very difficult experience and can be a distressing and vulnerable time for both patients and their loved ones. The Mental Health Act 2001 currently permits members of An Garda Síochána, a family member, an Authorised Officer or another person to arrange admission for people presenting with an apparent risk to self or others owing to a mental disorder and/or a perceived need for treatment. Section 9 of the Heads of Bill proposes that family members will no longer be able to apply to have their loved one admitted to a psychiatric hospital when they believe that this is necessary for their care and treatment.

Waiting for an Authorised Officer to arrange an admission, as proposed, would present significant problems for the timely assessment and provision of care to patients.

Firstly, while the Heads of Bill provide that Authorised Officers should be available on a 24/7 basis, these positions are not widely filled within the health service and recruitment is a challenge. In the UK's NHS, Approved Mental Health Professionals (AMHP), the equivalent of Authorised Officers, undergo extensive training for the role. The NHS is also experiencing challenges in recruiting and retaining AMHPs and there are reports of significant stress and burnout in this group.

Secondly, it is unclear from the Bill where clinical responsibility lies if an Authorised Officer decides not to complete an application, and the patient comes to significant harm because of having been denied admission to hospital. Consultants have a continuing clinical and professional responsibility for the diagnosis, treatment and care of their patients and an ethical duty to act to protect vulnerable people who are at risk or who may suffer harm.

Thirdly, removing the role from An Garda Síochána in such admissions, made in consultation with a Garda GP, may have the unintended consequence of leading to prolonged detention in Garda Stations for those in need of timely specialist psychiatric care. Other patients requiring admission may also have to wait for lengthy periods in Emergency Departments (ED) for an Authorised Officer

to attend. EDs are often chaotic environments and not an appropriate setting for treating patients with acute mental illnesses. This in turn may impact adversely on ED services for other patients.

2. Admission orders and renewal orders (Section 18)

Consultant Psychiatrists are compelled to advocate on behalf of patients to ensure the provision of timely and appropriate care. We believe that the proposal to shorten the period for review of admission and renewal orders from 21 days to 14 days as per Section 18 (3), while perhaps well intentioned, may in fact cause increased distress for patients and provide inadequate time to evaluate those patients that have complex presentations. In addition, the inevitable associated increase in costs has not been quantified.

Shortening the period would also result in a reduction in the time available to Consultant Psychiatrists for the direct provision of patient care, adding to the existing overstretched mental health service situation. Over the past decade we have been trying to manage a growing and very serious Consultant recruitment and retention crisis. Of the 485 approved Consultant Psychiatrist posts (as at 1st February 2021) approximately 1 in 4 were vacant or filled on a temporary or agency basis. It is understood this figure has since increased to closer to 1 in 3.

3. Restraint and Seclusion (Sections 69 and 107)

Patients have a right to be safe when they are in hospital. Staff members, including doctors, nurses and other staff have the right to work in a safe place. While the vast majority of violence in society is unrelated to mental illness, we must acknowledge that aggression and violence may indicate an unmet treatment need such as an untreated psychotic illness. The purpose of seclusion on psychiatric wards is to prevent serious violence to other patients and to staff members. Seclusion should always be used for the minimum time possible and only to prevent serious violence.. Sometimes it is necessary for a patient to be restrained by professionally trained nursing staff to relocate the patient to seclusion or administer the necessary medication to treat their illness. This should again be only for emergency situations and for the minimum time only.

Section 69(2) states that the rules on seclusion and restrictive practice shall be made by the Mental Health Commission, without further input from the Oireachtas. This is a clear democratic deficit. The Bill also states that failure to comply with the rules or breaches of the rules are punishable with summary convictions and fines, meaning that Consultant Psychiatrists can receive criminal convictions for matters that may include errors on seclusion forms and paperwork. We do not think it is appropriate that criminal convictions apply to staff who are acting to prevent violence on wards. This will likely have a detrimental effect on recruitment into psychiatry further exacerbating existing recruitment challenges.

Rapid titration of medication is referred to as *'chemical restraint'* in the Bill. This is not an appropriate term, and we consider it is misleading, stigmatising and could be frightening to patients and their families. Rapid titration of medication is often necessary when very unwell patients are admitted to hospital, a means of ensuring that the patients' mental state is stabilised as quickly as possible to minimise the need for seclusion, and indeed reduce length of stay in hospital. The prescription of all medication is already under the legal provisions of the Medical Practitioners Act (of Ireland) and is subject to review if needed by the Medical Council of Ireland.

The IHCA respectfully asks this Committee that the rules pertaining to seclusion, restraint and restrictive practice be set out clearly in the Bill, & that the power to change these rules rest with the

Oireachtas alone. We ask that the term '*chemical restraint'* is changed to '*rapid titration of medication*'. We ask for removal of the clause permitting the criminalisation of doctors for breaching rules.

4. Admission of children to approved inpatient facilities (Part 8)

The proposed timeline of 21 days to review the admission of a child aged 16 years or older as an intermediate person in Section 87 is appropriate, given that Court proceedings can be very stressful and overly frequent reviews - for example when treating a patient suffering from an eating disorder - could be unnecessary and counterproductive.

It is not appropriate for a child to be brought to an Approved Centre by the Gardaí without the necessary safeguards, as is proposed in Section 90. Children presenting in crisis do not necessarily have a mental illness and require appropriate assessment, including medical assessment, in an appropriate setting.

The Bill is silent on Section 25 applications made under the current Mental Health Act regarding children in care and subject to Court Orders. This is a critical protection that should not be removed, as the Courts can ensure a child does not remain inappropriately in an approved centre.

5. Conclusion

Our mental health services are facing huge challenges. The decisions taken by this Committee and the Oireachtas on the proposed legislation may profoundly affect some of the most vulnerable members of our society. It is imperative that we address the above concerns for patients, families and those responsible for their care.

I thank you for invitation to your discussions on these important matters. We are available to address your questions on the above issues.

ENDS