**G:** This podcast is for informational purposes only and should not be considered legal advice.

Kaya! This podcast is recorded on Whadjuk Noongar Boodja. I acknowledge the Whadjuk people of the Noongar nation as the Traditional Owners of this land and pay my respects to Elders past and present. This always was and always will be Aboriginal land.

\*Sound\*

**Mad:** We get a lot of calls in our service navigation line, our admin phone and also our individual advocacy service from people who don’t know they’re under the act, they are confused about their rights, they haven’t been properly told about where they sit under the act and they want to know more from us about what they can do.

**G:** That was Mad Magaldry from Consumers of Mental Health WA, Consumers of Mental Health WA is a community organisation in WA that works to coordinate, promote and support the consumer voice within mental health services and the wider community.

\*Sound\*

Welcome pals, you’re listening to ‘That’s not a vibe’ with G, today we’re talking about the WA Mental Health Act. What is it? Who’s it for? And how can you take action if you think your rights under the act aren’t being upheld?

So, do you know what the Mental Health Act is?

**Various voices:**

“Uh, no”

“Only because of my advocacy work not as a consumer”

“I’ve definitely heard it referenced a lot but haven't read it”

**Zoe:** Ok G, so what is the Mental Health Act?

**G:** Well, the Mental Health Act is a piece of law that the Parliament of Western Australia passed in October 2014, it is officially referred to as the Mental Health Act WA 2014. It outlines the rights of people who access mental health services in WA. The act is in place to ensure that these people are provided with the best possible treatment and care, in the least restrictive way.

The act also makes it lawful for people to be transported, detained or treated for mental ill health without their consent.

**Zoe:** Ok, that makes sense, but who’s the Act for? Is it relevant to me?

**G:** Well, the mental health act applies to all people in WA who access mental health services. This includes services such as Headspace, public hospitals and private mental health clinics.

However, the primary focus of the act is about upholding the rights of people who are subject to involuntary treatment for their mental health, these people are referred to as “involuntary patients”. An involuntary patient is a person who is being treated without their agreement, known as ‘consent’. This will be under an involuntary treatment order.

So, an involuntary treatment order is an order made by a psychiatrist that requires someone to be provided with treatment against their consent. This can be an inpatient treatment order, which requires a person to be admitted to an authorised hospital for this treatment, or a community treatment order which means this person must receive treatment in the community.

Ok, I’m not under an involuntary treatment order, what does that make me?

Well, this likely means that you are a voluntary patient. A voluntary patient is someone who agrees to receive mental health treatment. Treatment can only be provided to a voluntary patient with informed consent from themselves or, someone else (such as a guardian) who may be able to make a decision on their behalf.

**Zoe:** Ok got it. But what are my rights according to the act?

**G:** I asked people if they knew their rights under the Mental Health Act and this is what they said.

**Various voices:**

“Not really, I know I probably have them and could guess a few basic ones, but not really, no”

“I don’t think so, I know I have rights but I don’t remember what they are”,

“I vaguely remember someone telling me something about rights but I was way too foggy at the time”

“I don’t know”

“Some of them but not a lot”

**G:** Ok. So, the Mental Health Act is built around 15 care principles, described in a Charter of Mental Health Care Principles. These principles outline the care you are entitled to when accessing a mental health service in WA. You have a right to complain about any breaches of the Charter by mental health service providers. You can find this charter linked in the show notes.

In summary, the Charter outlines that mental health services are expected to;

treat people experiencing mental ill health with dignity and respect, which includes respecting their right to make decisions about their own lives; services must not discriminate against or stigmatise people with mental ill health; they must recognise and try to respond to individual’s needs; promote collaboration, choice and independence; and focus on recovery; when appropriate, they must provide information to, listen to, and involve families, carers and other personal support people; they must treat people fairly, be accountable for their actions and consult others before making decisions and they must focus on providing the best possible service, in the least restrictive way. There are additional rights for “referred persons”, this is someone who has been referred for an examination by a psychiatrist and for “involuntary patients”, these are outlined in pages 12-13 of the Consumer Handbook to the Mental Health Act 2014.

**Zoe:** Thanks G, I now understand what my rights are but how can I take action if my rights under the Mental Health Act aren't being upheld?

**G:** I asked young people if they knew where to go for help if they thought their rights under the act were broken.

**Various voices:**

“No, I don’t think so”

“Ah no, I wouldn’t know where to get help”

“I don’t know”

**G:** Well, if you are currently an involuntary patient and you think your rights under the Mental Health Act have been breached, you can request aMental Health Tribunal hearing. The Mental Health Tribunal is an independent legal body who makes decisions about whether people still need to be on an involuntary treatment order. Alternatively, if you are receiving involuntary treatment or have been referred for involuntary treatment, you can contact the Mental Health Advocacy Service.

They’re an independent service that provides free support to people across WA. Advocates are dedicated to ensuring that: you are informed about your rights; your rights are respected; and your wishes are considered.

If you don’t understand your rights or require support to have these rights upheld, you can contact Consumers of Mental Health WA. Consumers of Mental Health WA provides free individual advocacy support to people experiencing mental health challenges, who reside in the Perth Metropolitan area.

If you require free legal advice, you can contact the Mental Health Law Centre.The Mental Health Law Centre is a community legal service that provides private legal advice and representation to people with mental illness in multiple areas, including mental health act matters. Their telephone advice line provides legal advice and referrals for all your legal inquiries.

If you want to share your experience with other people, you can visit Care Opinion Australia, Care Opinion is a not-for-profit organisation that hosts an online public platform where people can share their experiences of healthcare and receive responses from the relevant healthcare provider.

Thanks for tuning in to That’s not a vibe - the Mental Health Act. I hope you found this podcast helpful, for more information, you can find all the resources I mentioned in the show notes.

Thank you to everyone that contributed to this podcast and thank you to Mood Mode for the sound.