

Health Legislation Amendment Bill (No. 2) 2025

Statement of Compatibility

Prepared in accordance with Part 3 of the Human Rights Act 2019

In accordance with section 38 of the *Human Rights Act 2019*, I, Tim Nicholls MP, Minister for Health and Ambulance Services make this statement of compatibility with respect to the Health Legislation Amendment Bill (No. 2) 2025 (Bill).

In my opinion, the Bill is compatible with the human rights protected by the *Human Rights Act 2019*. I base my opinion on the reasons outlined in this statement.

Overview of the Bill

The Bill amends four Acts to make changes to promote public health and safety, create efficiencies and improve the operation of legislation.

In particular, the Bill amends the:

- *Pharmacy Business Ownership Act 2024* (PBO Act) to clarify operational requirements relating to the regulation of pharmacy business ownership in Queensland, to ensure the Act operates as intended when the licensing framework under the Act commences;
- *Public Health Act 2005* to support the transition of the state-based Notifiable Dust Lung Disease Register to the National Occupational Respiratory Disease Registry and to clarify that an authorised person may leave equipment and materials at a place to collect samples to detect designated pests, including adult mosquitoes for detecting the presence of Japanese Encephalitis Virus;
- *Queensland Mental Health Commission Act 2013* to clarify that the Minister for Health and Ambulance Services can appoint an Acting Mental Health Commissioner to the Queensland Mental Health Commission when the office is vacant due to the Mental Health Commissioner's term of office expiring; and
- *Radiation Safety Act 1999* to ensure the safe disposal of radioactive material by clarifying that any person can apply for and hold an approval to dispose of radioactive material.

The Bill also makes amendments to the *Public Health Regulation 2018* to reflect the changes made to the Public Health Act relating to the Notifiable Dust Lung Disease Register.

Human Rights Issues

Human rights relevant to the Bill (Part 2, Division 2 and 3 *Human Rights Act 2019*)

In my opinion, the human rights that are relevant to the Bill are:

- Right to property (section 24); and
- Right to privacy and reputation (section 25).

If human rights may be subject to limitation if the Bill is enacted – consideration of whether the limitations are reasonable and demonstrably justifiable (section 13 *Human Rights Act 2019*)

Amendments to the *Pharmacy Business Ownership Act 2024*

Shareholders holding on trust

Section 10(1)(c) of the PBO Act currently provides that a corporation, whose directors and shareholders are a combination of practising pharmacists and close adult relatives of practising pharmacists, and in which the majority of shares, and all voting shares, are held by practising pharmacists, is an eligible person to own a pharmacy business. Only an eligible person may hold a licence under the PBO Act, and it is an offence under section 15 to own a pharmacy business without a licence. The maximum penalty for non-compliance with section 15 is 200 penalty units.

Section 13 provides that a material interest in a pharmacy business includes, relevantly, an interest in the business as a beneficiary of a trust of which an owner of the business is a trustee. Under section 16, only a practising pharmacist or the close adult relative of a practising pharmacist is permitted to hold a material interest. The maximum penalty for non-compliance with section 16 is 200 penalty units.

Currently, the PBO Act does not expressly state that a shareholder of a corporate owner of a pharmacy business cannot hold their shares on trust for a corporation or for a person who is not a practising pharmacist or a close adult relative of a practising pharmacist. Arguably, this ambiguity would allow a shareholder to hold their interest on trust for individuals who are not practising pharmacists, or their close adult relatives. This conflicts with the premise and intent of the PBO Act, which is that ownership of, and interests in, pharmacy businesses should be limited to practising pharmacists and their close adult relatives. It was not intended that shareholders could hold shares on trust for a corporation or for other persons who are not practising pharmacists or their close adult relatives.

To remove this ambiguity, ensure the intent of the PBO Act is met, and ensure those that are subject to the PBO Act can understand their obligations, the Bill amends the PBO Act to clarify that a shareholder of a corporate owner of a pharmacy business cannot hold their shares on trust for anyone other than a practising pharmacist or their close adult relatives. A practising pharmacist or close adult relative of a practising pharmacist who holds such shares as a beneficiary will hold a material interest in the business.

(a) the nature of the right

Right to property

Section 24 of the Human Rights Act protects the right of all persons to own property and provides that people have a right not to be arbitrarily deprived of their property. ‘Property’ includes all real and personal property interests recognised under general law (for example, interests in land, contractual rights, money and shares) and may include some statutory rights, especially if the right includes traditional aspects of property rights, such as to use, transfer, dispose and exclude. The right includes the protection from substantial restrictions on a person’s use or enjoyment of their property, to the extent that it substantially deprives a

property owner of the ability to use or control their property or part of that property (including enjoying exclusive possession of it, disposing of it, transferring it or deriving profits from it) and to exclude others.

The amendment to section 13 of the PBO Act to clarify that a shareholder of a corporate owner of a pharmacy business cannot hold their shares on trust for anyone other than a practising pharmacist or their close adult relatives, will arguably limit the property rights of shareholders who may wish to hold their shares on trust for another person, and also the ability of individuals who are not practising pharmacists or their close adult relatives to hold a beneficial interest in such shares.

- (b) the nature of the purpose of the limitation to be imposed by the Bill if enacted, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

The purpose of the amendment to section 13 of the PBO Act is to remove the ambiguity inherent in section 13 as currently drafted, ensure the intent of the PBO Act is met, and ensure those that are subject to the PBO Act can understand their obligations and entitlements, including potential liability under sections 15 and 16.

- (c) the relationship between the limitation to be imposed by the Bill if enacted, and its purpose, including whether the limitation helps to achieve the purpose

The amendment will achieve the purposes above by clarifying that a shareholder of a corporate owner of a pharmacy business cannot hold their shares on trust for anyone other than a practising pharmacist or their close adult relatives. This will remove any ambiguity in current section 13 and clarify who is lawfully able to hold such an interest.

- (d) whether there are any less restrictive (on human rights) and reasonably available ways to achieve the purpose of the Bill

There is no less restrictive or reasonably alternative way to achieve the public health objectives of the limitation. Without this amendment, section 13 will remain ambiguous and impacted individuals will not have clarity on their rights and obligations under the PBO Act.

- (e) the balance between the importance of the purpose of the Bill, which, if enacted, would impose a limitation on human rights and the importance of preserving the human rights, taking into account the nature and extent of the limitation

On balance, the amendment does not impose a more significant limitation on human rights than was intended in relation to section 13 of the PBO Act. The amendment simply clarifies the intent of section 13 and the PBO Act – that is, that ownership of, and interests in, pharmacy businesses should be limited to practising pharmacists and their close adult relatives.

- (f) any other relevant factors

Nil.

Information sharing

(a) the nature of the right

Right to privacy and reputation

The right to privacy protects individuals against unlawful or arbitrary interferences with their privacy, family, home, or correspondence. Privacy is generally understood to comprise freedom from unwarranted and unreasonable intrusions into activities that society recognises as falling within the sphere of individual autonomy. The concept of lawfulness in the context of the right to privacy means that no interference can take place except in cases envisaged by the law, while the concept of arbitrariness extends to interferences that may be lawful but that are capricious, unpredictable, unreasonable, and disproportionate. It protects privacy in the sense of personal information, data collection and correspondence.

The Bill amends section 206 of the PBO Act to allow the Pharmacy Business Ownership Council (the Council) to share information with Queensland Health. Such information may be required, for example, to assist Queensland Health to determine whether a person owns a licensed pharmacy business and is therefore eligible for Council membership upon recommendation of the Minister, or to determine whether a pharmacy business is licensed to support functions under other legislation such as the *Medicines and Poisons Act 2019*.

The Bill also inserts a new section 73A which allows the Council to enter into an information sharing arrangement with Queensland Health, for the purposes of sharing or exchanging information held by the Council or the chief executive, or to which the Council or the chief executive has access. Under an information-sharing arrangement, the Council and the chief executive are, despite another Act or law, authorised to ask for and receive information held by the other party to the arrangement or to which the other party has access to, and to disclose information to the other party. This amendment may be regarded as adversely affecting an individual's privacy in relation to their personal information.

Finally, new section 229A requires the chief executive, on commencement, to give the Council a notice of existing pharmacy business ownership information. This is to support the transfer of responsibility for pharmacy business ownership regulation from Queensland Health to the Council. The provision of a notice of existing pharmacy businesses to the Council raises privacy issues, including the risk that personal information of past pharmacy business owners may be provided to the Council without their consent.

(b) the nature of the purpose of the limitation to be imposed by the Bill if enacted, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

The purpose of the amendment to section 206 to allow the Council to share information with Queensland Health is to support the effective operation of legislation, including the PBO Act and the Medicines and Poisons Act, and ensure Queensland Health can deliver on its legislative obligations, in the interests of public health.

The intent of new section 73A is primarily to ensure that the Council can obtain the information required to make a fulsome assessment of whether a person is fit and proper to hold a licence under the PBO Act and therefore own a pharmacy business in Queensland. By allowing

Queensland Health to provide information to the Council about, for example, contraventions of the Medicines and Poisons Act, the Council can be made aware of any factors that may impact a licence holder's ability to maintain the high standards required to operate and control a pharmacy business. This is intended to promote the safe and competent provision of pharmacy services in Queensland.

The purpose of new section 229A is to support the transfer of responsibility for pharmacy business ownership regulation from Queensland Health to the Council. This will ensure that existing pharmacy businesses that are transitioning into the licensing scheme are identified and able to be contacted by the Council. It will also assist with the Council's understanding of whether a business is an eligible business under the PBO Act and how the transitional provisions apply to them.

Understanding who may be captured by the licensing scheme is essential to the role of the Council and the performance of its functions. It is expected that any regulator should have the necessary information available to it to ensure it can carry out its functions. Accordingly, the provision is necessary to support the full implementation of the licensing scheme once commenced. The Council will also need to have access to this information to ensure it is aware of any pharmacy businesses that are required to have a licence under the PBO Act from commencement, where they do not otherwise apply. By authorising Queensland Health to provide this information to the Council, the Council will be better equipped to enforce compliance with the PBO Act and give effect to the public health aims of the PBO Act.

The protection and promotion of public health is a purpose that is consistent with a free and democratic society based on human dignity, equality and freedom.

(c) the relationship between the limitation to be imposed by the Bill if enacted, and its purpose, including whether the limitation helps to achieve the purpose

The purpose of these limitations is to ensure the Council and Queensland Health can perform their respective functions and uphold the integrity of the relevant regulatory schemes. Information sharing provisions are commonplace between regulatory bodies and government agencies that oversee the proper administration of authorising Acts. The Council's monitoring and enforcement functions are best served by ensuring the Council can receive and share information with Queensland Health.

Given the significant overlap with the regulation of medicines and public health, it is also appropriate for Queensland Health to have access to information about pharmacy business owners to help it enforce and administer the operation of the Medicines and Poisons Act and other health legislation. This ensures Queensland Health can undertake well-informed and comprehensive monitoring and investigations into activities that may endanger the health and safety of the public.

(d) whether there are any less restrictive (on human rights) and reasonably available ways to achieve the purpose of the Bill

The amendments in the Bill are the least restrictive and reasonably available way to achieve the identified purposes.

The ability for the Council to share information with Queensland Health under section 206 of

the PBO Act as amended by the Bill supports the functions of the Council and administration of other Acts where Queensland Health is responsible for enforcing compliance. Any impact on privacy enlivened by the amendment to section 206 is mitigated by the express limitation in the scope of the information that may be shared—that is, the Council must be satisfied the disclosure is reasonably necessary for Queensland Health to exercise its functions. Further, the Council must be satisfied the confidential information will be collected, stored and used by Queensland Health in a way that protects the privacy of the persons to whom the information relates from unjustified intrusion.

Without the relevant information sharing provisions, Queensland Health would not be able to carry out its implicit function to help support the Minister to determine whether a person owns a licensed pharmacy business and is therefore eligible to be recommended as a member of the Council. It is also imperative for Queensland Health to have access to information about the identity of licence holders and the status of licences to determine whether a pharmacy business is licensed to support functions under other legislation such as the Medicines and Poisons Act. This may directly impact on Queensland Health's ability to achieve its public health functions.

Similarly, section 73A is limited in scope because the information that may be shared is only that which is relevant to the Council's decision on whether a person is fit and proper under section 72, and other information that is reasonably necessary to facilitate the sharing of that information with the Council. Under new section 73A(4), the Council must ensure any information received under an information-sharing arrangement is not used for any purpose other than the making of a decision under section 72 about the person to whom the information relates. Additionally, these limits on the right to privacy apply only to applicants for and holders of pharmacy business licences, and their shareholders and directors. By participating in a statutory licensing scheme, a person has, as a condition of participation, accepted the monitoring and enforcement provisions of the scheme.

Alternative options to requiring Queensland Health to provide a notice of existing pharmacy businesses to the Council on commencement were considered—for example, allowing the Council to request details of owners on a case-by-case basis. However, given there are approximately 1,300 existing pharmacy businesses in Queensland, this option was considered impractical, and would be inefficient for both Queensland Health and the Council. Without the transitional provisions that authorise the disclosure of details about existing pharmacy business owners from Queensland Health to the Council, the Council may risk not engaging with pharmacy businesses or granting a pharmacy business a licence. It is in the interests of existing pharmacy businesses for this information to be provided to the Council so that they can operate in compliance with the PBO Act. The Council will also need to have access to this information to ensure it is aware of any pharmacy businesses that are required to have a licence under the PBO Act from commencement, where they do not otherwise apply. The limitation on privacy is mitigated by the limited scope of the information to be provided to the Council.

Any limitations on privacy arising from the above information sharing amendments are further alleviated by the application of section 205 of the PBO Act, which provides that it is an offence for a person to unlawfully disclose confidential information obtained under the PBO Act, with a maximum penalty of 50 penalty units.

- (e) the balance between the importance of the purpose of the Bill, which, if enacted, would impose a limitation on human rights and the importance of preserving the human rights, taking into account the nature and extent of the limitation

Information sharing arrangements are necessary between Queensland government agencies and regulatory bodies to ensure their effective functioning and to protect and promote the health and safety of Queenslanders. Permitting disclosure to Queensland Health in limited circumstances is appropriately balanced with the purpose for which this information will be used, being public safety and proper administration of other Acts.

The limitation on the right to privacy is reasonable given that pharmacy owners are responsible for handling and overseeing the supply of potentially dangerous medicines. If an owner lacks integrity, competence or accountability, it could lead to serious risks to public health, such as misuse, theft or diversion.

To mitigate the limitation on the right to privacy, the Bill includes suitable safeguards to ensure the information that can be shared is limited in scope and offences apply for inappropriate disclosure.

Accordingly, the information sharing provisions in the Bill strike an appropriate balance between the public safety objectives of the Bill and an individual's right to privacy.

- (f) any other relevant factors

Nil.

Changes to the register

- (a) the nature of the right

Right to privacy and reputation

As outlined above, the right to privacy protects individuals against unlawful or arbitrary interference with their privacy, family, home, or correspondence.

Section 207 of the PBO Act requires the Council to maintain a register of pharmacy business licences and allows the publication of the register on the Council's website. The register must contain, for each licensed pharmacy business, the business name and address of the licensed premises for the business. Currently, the register may also contain information about pharmacy services provided by the business.

The Bill amends section 207 of the PBO Act to require the register to include the details of the licence, including the names of each of the licence holders, and details of the status of the licence associated with the business, including whether the licence is currently suspended or has been cancelled in the previous two years. The Bill will also require the register to be published. The amendments to the register mean that the name of each licence holder will be published on the register, not just the name of the business.

These amendments may affect an individual's privacy in relation to their personal information.

- (b) the nature of the purpose of the limitation to be imposed by the Bill if enacted, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

The purpose of the amendments to section 207 of the PBO Act is to promote transparency about compliance with the requirements of the PBO Act relating to ownership and the licence status of a pharmacy business. The register will allow members of the public and other stakeholders to verify ownership details and ensure a pharmacy business is compliant with the PBO Act. This supports the main purposes of the PBO Act, which is to promote the professional, safe and competent provision of pharmacy services by pharmacy businesses, and to maintain public confidence in the pharmacy profession.

- (c) the relationship between the limitation to be imposed by the Bill if enacted, and its purpose, including whether the limitation helps to achieve the purpose

These amendments are intended to promote transparency about the ownership and the licence status of a pharmacy business. Any impact on privacy is mitigated by the fact that the restriction will only impact on those owners who are individuals, as corporations and friendly societies do not have a right to privacy. As pharmacists, licence holders' names are already publicly available in the register of health practitioners maintained by the Australian Health Practitioner Regulation Agency, along with the suburb of their principal place of practice. The amendments do not extend to publishing the names of people who are close adult relatives of pharmacists or those with a material interest in the business.

In terms of the cancellation and suspension of licences, the Bill safeguards the privacy of individuals by limiting the publication of suspensions to the period they are in effect, and in the case of cancellations, to only those issued in the last two years.

Suspending and cancelling pharmacy business licences will have significant ramifications for both the business and for the public's access to medicines. As such, the Council will not take this action lightly and any published suspensions or cancellations will reflect a proportionate disciplinary decision.

- (d) whether there are any less restrictive (on human rights) and reasonably available ways to achieve the purpose of the Bill

Options that may be less restrictive include not publishing this information as part of the register and providing an avenue for members of the public to request certain information, including the name of owners. This would however create an administrative burden on the Council and be incongruent with the publication of the individual's name on the register of health practitioners. Some businesses are named after the individual pharmacist and some pharmacists publish their names on their own websites, such that creating a barrier to accessing this information is unnecessary.

Another alternative to publishing cancellation and suspension details for each licence is excluding these altogether from the register and using the public register as a means for the community to check if their pharmacy is currently licensed through a search function (that is, only listing current and effective licences). However, it is considered important that the public is aware of disciplinary action that results in cancellations or suspensions given the objects of the PBO Act, and to provide transparency about decisions made under the licensing framework.

Suspensions and cancellations also have the potential to impact on patients' access to medicines, so it is important that this information is made public. If a pharmacy business owner's licence has been cancelled or suspended, this information will assist patients to manage the associated risk to their supply, particularly in the case of regional areas where a patient may need to source medications from other providers, including a hospital or a pharmacy in another town. As such, it is considered necessary and prudent to protect the public and ensure that pharmacists employed in pharmacy businesses are aware of the business' licence status.

- (e) the balance between the importance of the purpose of the Bill, which, if enacted, would impose a limitation on human rights and the importance of preserving the human rights, taking into account the nature and extent of the limitation

The information published does not extend beyond what is required to promote transparency (for example, the required information does not include dates of birth, home addresses or details of material interest holders). Having regard to the importance of the amendments in promoting transparency and the functions of the PBO Act, the limitation on privacy rights is justified.

- (f) any other relevant factors

Nil.

Consideration of beneficiaries as part of licence applications

- (a) the nature of the right

Right to privacy and reputation

As outlined above, the right to privacy protects individuals against unlawful or arbitrary interference with their privacy, family, home, or correspondence.

Section 28 of the PBO Act lists the criteria that must be satisfied for the Council to grant a pharmacy business licence. This includes that each person who the Council is aware holds a material interest in the pharmacy business:

- is a person who is permitted, under section 16, to hold a material interest in the pharmacy business as a result of being a practising pharmacist or a close relative of a pharmacist in the same business; and
- does not already hold an interest in the maximum number of pharmacy businesses permitted under section 17 of the PBO Act (being 5 or 6 businesses in certain circumstances).

Section 25 of the PBO Act sets out the application requirements for a pharmacy business licence. To reflect the change made to clarify who is permitted to hold a material interest under the PBO Act, an amendment has been made to provide that, where a person holds shares in the applicant as a trustee of a trust, the name of each beneficiary of the trust must be provided in an application for a pharmacy business licence.

These amendments may affect an individual beneficiary's privacy in relation to their personal information, where an applicant provides the beneficiary's name in an application for a pharmacy business licence.

- (b) the nature of the purpose of the limitation to be imposed by the Bill if enacted, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

The purpose of the amendment is to ensure the material interest of the beneficiary can be considered when deciding whether to grant a licence to the applicant. This aims to ensure each beneficiary meets the requirements of sections 16 and 17 of the PBO Act. The provision of a beneficiary's name as part of the application allows the Council to cross-reference the Council's internal records of other pharmacy businesses. This allows the Council to identify if the person is involved in another pharmacy business and if so, how many businesses the person is involved in, to determine if they meet the requirements of sections 16 and 17.

- (c) the relationship between the limitation to be imposed by the Bill if enacted, and its purpose, including whether the limitation helps to achieve the purpose

These amendments are intended to ensure compliance with the PBO Act and that the intent of sections 16 and 17 of the PBO Act is achieved. This will provide for the appropriate regulation of those holding a material interest in a pharmacy business.

- (d) whether there are any less restrictive (on human rights) and reasonably available ways to achieve the purpose of the Bill

There is no less restrictive or reasonably available way to achieve the purpose of the amendment. The only alternative would be to require applicants to attest to the compliance with sections 16 and 17, without any ability for the Council to confirm whether a beneficiary's interest was in contravention of the PBO Act. This would not provide the Council with the necessary information it needs to ensure compliance with the PBO Act. Given the objective of the Council's functions, it is not unreasonable for the Council to have access to basic information, such as a name, to ensure that interests are identifiable and are not unlawfully in place.

- (e) the balance between the importance of the purpose of the Bill, which, if enacted, would impose a limitation on human rights and the importance of preserving the human rights, taking into account the nature and extent of the limitation

The PBO Act already includes suitable safeguards to ensure this information is only used for the purpose for which it was collected, being to assist in the consideration of the material interest holders that will arise as part of granting a pharmacy business licence.

Safeguards exist to mitigate the limitation on the right to privacy. For example, the section 205 offence for the disclosure of confidential information prohibits disclosure unless it is required or permitted by the PBO Act. The use of this information is also sufficiently defined given that the name of beneficiaries will only be used for the application process, to consider the person's material interests and position in relation to the pharmacy business.

The amendment only requires a beneficiary's name to be provided to ensure the Council is aware of the number of people who have a material interest in the pharmacy business subject to the application, and to allow for checking against the names of persons who hold a material interest in other pharmacy businesses.

Beneficiary names are also not likely to be disclosed as part of the lawful disclosure provisions under the PBO Act and will not otherwise be information that can be published on the Council's website or register. The Council is also an agency for the purposes of the *Information Privacy*

Act 2009 and as such, will be required to comply with the requirements under that Act for the collection and use of personal information.

The fundamental intent of the PBO Act is to restrict who can own and have an interest in a pharmacy business. As such, this amendment plays an integral role in the identification of material interest holders and achieving the intent of the PBO Act. Having regard to the purpose of the amendment and ensuring material interest requirements are complied with, the amendment is justified.

(f) any other relevant factors

Nil.

Amendments to the *Public Health Act 2005* and the *Public Health Regulation 2018*

Transitioning the Queensland Register to the National Registry

The Bill amends the Public Health Act and the Public Health Regulation to transition from the Notifiable Dust Lung Disease Register (Queensland Register) to the National Occupational Respiratory Disease Registry (National Registry).

(a) the nature of the right

Right to privacy and reputation

As noted above, section 25 of the Human Rights Act provides that a person has the right not to have their privacy arbitrarily or unlawfully interfered with.

The amendments require personal information about a person's diagnosis with an occupational respiratory disease to be notified to the Commonwealth for inclusion on the National Registry, rather than to the Queensland Government for inclusion on the Queensland Register.

(b) the nature of the purpose of the limitation to be imposed by the Bill if enacted, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

The purpose of the limitation is to assist in improving the recording of diagnoses of dust lung disease in Australia and preventing further worker exposure to respiratory disease-causing agents.

The most appropriate organisation to keep records of this incidence is the Australian Department of Health and Aged Care through the National Registry. Transitioning Queensland to the national system will help improve national data, while retaining Queensland's access to state-level diagnosis information. This transition will also create government efficiency by consolidating government reporting and analysis on occupational respiratory diseases.

(c) the relationship between the limitation to be imposed by the Bill if enacted, and its purpose, including whether the limitation helps to achieve the purpose

Requiring information to be provided to the Commonwealth, rather than Queensland, will improve the scope and quality of national dust lung disease data and assist in preventing further

worker exposure to respiratory disease-causing agents.

Recording and analysing occupational respiratory disease diagnoses in Australia is prudent and in the public interest. In July 2024, Australia banned the manufacture, supply, processing and installation of engineered stone benchtops, panels and slabs. This action was taken based on the rise in silicosis diagnosed in engineered stone workers, coupled with evidence that inorganic dust from engineered stone causes silicosis and other serious lung diseases.

The main object of the National Registry is to use the records regarding incidence of occupational respiratory disease in Australia to assist in preventing further worker exposure to respiratory disease-causing agents. Queensland's transition to the national system will expand national data on the matter. It will also ensure Queensland's information remains protected and that relevant Queensland entities still have access to that data.

(d) whether there are any less restrictive (on human rights) and reasonably available ways to achieve the purpose of the Bill

There is no less restrictive or reasonably alternative way to achieve the public safety objectives of the limitation.

Instead of requiring prescribed medical practitioners to notify diagnoses of dust lung diseases, a possible alternate may be to only require notification where the diagnosed person has first given consent to share their personal information with the National Registry.

However, requiring consent would allow patients to opt out of reporting. This would likely reduce the quantity and quality of data. Given the strong protections under the Public Health Act and the *National Occupational Respiratory Disease Registry Act 2023* (Cth) (NORDR Act) for dealing with information related to the Queensland Register and National Registry, requiring consent would not offer any significant additional protection to the diagnosed person's right to privacy. These legislative protections ensure confidentiality is preserved and access to the information is limited.

Ensuring that complete data is made available to the Commonwealth is prudent disease prevention management and is in the public's best interest.

- (e) the balance between the importance of the purpose of the Bill, which, if enacted, would impose a limitation on human rights and the importance of preserving the human rights, taking into account the nature and extent of the limitation

The limitation on the right to privacy is proportionate to the objective of protecting the public and therefore justified under section 13 of the Human Rights Act.

The information in question is the same information required to be shared under the Public Health Act for the purposes of the Queensland Register. The proposed change is that the information is shared instead with the Commonwealth for the purposes of the National Registry.

Both the Public Health Act and the NORDR Act make misuse of confidential patient information an offence. They also both generally prohibit disclosure of the information. However, they authorise limited sharing of information, such as arrangements across Commonwealth and State agencies.

As an extra protection, the NORDR Act limits access to identifiable data. States and Territories may only access identifiable data for diagnosed patients residing in their jurisdiction. In effect, this mirrors the existing situation in Queensland. However, in keeping with the concept of a national database, State and Territory authorities can access de-identified information about diagnoses of patients from other jurisdictions. Restricting access by jurisdiction reflects a commitment to preserving privacy as much as possible.

The requirement to notify will be lawful and is not arbitrary. Also, given the public safety benefits of sharing the information with the Commonwealth and the legislative protections surrounding use of the information, the requirement will be reasonable, necessary and proportionate.

The amendments also require the chief executive to keep the information already recorded in the Queensland Register in a form the chief executive considers appropriate, including, for example, an electronic form. As the Queensland Register is kept electronically, it is expected that this will continue to be the form in which the information in the register is retained after the register is decommissioned. However, as it will no longer be necessary to update the Queensland Register, the secure electronic program or platform used for the register may change.

The National Registry commenced in May 2024 and currently only requires notification of silicosis. This means that significant historical data about diagnoses of notifiable occupational respiratory disease in Queensland is held on the Queensland Register. To ensure Queensland Health can undertake or facilitate public health analysis and investigation in relation to notifiable occupational respiratory disease, the information in the Queensland Register must remain accessible for legitimate research purposes. Accordingly, it is critical to retain the information held on the Queensland Register. As noted, the Bill maintains the existing duties of confidentiality in relation to information held on the Queensland Register.

Under the *Right to Information Act 2009*, a person whose diagnosis is recorded on the Queensland Register may apply for access to that information. The proposed amendments do not change any existing right a person may have to access personal information about themselves.

However, once the Queensland Register is decommissioned, existing entries will not be updated to note any revised or additional diagnoses about a person. Although this information will be available to Queensland Health through the National Registry portal, linking this to entries on the Queensland Register would continue the duplication that decommissioning the register is intended to stop. As such, the information held on the Queensland Register will remain static as at the date of decommission. This is consistent with the overall intention for the National Registry to become the single source of truth for information on diagnoses of notifiable occupational respiratory disease.

The proposed amendments impact on the right to privacy only so far as necessary to achieve the purpose. The public health benefits of recording and analysing the incidence of dust lung disease diagnoses across Australia outweigh the impact on the right to privacy.

(f) any other relevant factors

Nil.

Improving detection and monitoring of mosquitoes for Japanese Encephalitis Virus

The Bill proposes to amend the Public Health Act to specifically include the power to leave equipment and materials at a place for a reasonable period to collect a sufficient sample for detecting and monitoring designated pests in an area.

(a) the nature of the right

Right to privacy and reputation

As noted above, section 25 of the Human Rights Act provides that a person has the right not to have their privacy arbitrarily or unlawfully interfered with.

Right to property

As also noted above, the right to property protects the right of all persons to own property and provides that people have a right not to be arbitrarily deprived of their property.

The amendment to allow an authorised person to leave equipment and materials imposes a limitation on a person's right to privacy by interfering with their private life and their right to enjoy their property.

(b) the nature of the purpose of the limitation to be imposed by the Bill if enacted, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

The purpose of the limitation is to ensure public health is protected by allowing authorised persons to leave equipment and materials for periods of time to monitor designated pests and test for public health risks in an effective way. The amendment is designed to accommodate the leaving of sampling equipment such as light traps to capture a live sample of air-borne pests, including adult mosquitoes.

An authorised person will be empowered to be on a person's private property on more than one

occasion, including to install the equipment, check if it has collected a sufficient sample, and to remove the equipment. This means that a person's right to private enjoyment of their property will be interfered with for a longer period of time.

The amendment enables a part of a place to be used for leaving equipment overnight, for example, where the property is in proximity to a suitable sampling site. It is considered that the limitation is appropriate in the circumstances where the equipment used will cause little interference with the property and is there for the purposes of collecting a sample of pests in the area. There may also be cases where this power is not used in relation to private property and is instead used in a public area.

(c) the relationship between the limitation to be imposed by the Bill if enacted, and its purpose, including whether the limitation helps to achieve the purpose

The amendment will improve sampling of pests and help increase effective monitoring of certain pest-borne diseases. Determining whether a certain mosquito-borne disease, such as Dengue Fever, is likely to be present in a location generally involves analysing samples of mosquito larvae which can be collected from water sources immediately on entry to a location. This is currently authorised under the Public Health Act. However, determining whether mosquitoes capable of transmitting the Japanese Encephalitis Virus are present at a location requires the trapping and testing of adult mosquitoes. This requires a light trap to be left at the site overnight or longer. The ability to leave the sampling equipment overnight is directly related to the critical period when the adult mosquitoes are most active, which is commonly in the early evening and pre-dawn. The limitation on rights is therefore appropriately confined to sampling equipment and materials for a reasonable period.

Clarifying that equipment can be left at a site will help ensure a sufficient sample of pests is captured, allowing greater detection and management of health risks, including those associated with mosquito-borne diseases across Queensland. The ability to capture a sufficient sample helps protect the Queensland community from the risk of diseases like Japanese Encephalitis Virus and assists with identifying sources and prevalence. The limitation on rights to property and privacy are directly connected to the purpose of the limitation.

(d) whether there are any less restrictive (on human rights) and reasonably available ways to achieve the purpose of the Bill

There is no less restrictive or reasonably alternative way to achieve the public health objectives of the limitation.

(e) the balance between the importance of the purpose of the Bill, which, if enacted, would impose a limitation on human rights and the importance of preserving the human rights, taking into account the nature and extent of the limitation

This amendment is intended to help address the rising incidence of Japanese Encephalitis Virus in the community. Japanese Encephalitis Virus is endemic to parts of Asia and the Torres Strait region of Australia. The disease has now been detected in humans, animals and mosquitoes in mainland Australia. Infection in humans is most commonly asymptomatic but on rare occasions it can result in severe disease and even death.

The amendments will improve the capacity to collect samples of adult mosquitoes for analysis

and testing and help inform Queensland Health and the relevant local government of the public health risks in a particular area. This information will be used to implement strategies and control measures to manage the public health risks posed by mosquito-borne diseases for the benefit of the community.

On balance, clarifying that the powers include the ability to leave equipment and materials for a reasonable period strikes a fair balance between the limitation on the rights to property and privacy, and the greater public health protection afforded by taking the sample and monitoring the existence and prevalence of diseases like Japanese Encephalitis Virus.

(f) any other relevant factors

Nil.

Conclusion

In my opinion, the Health Legislation Amendment Bill (No. 2) 2025 is compatible with human rights under the Human Rights Act because it limits the identified human rights only to the extent that is reasonable and demonstrably justifiable in accordance with section 13 of the Human Rights Act.

THE HONOURABLE TIM NICHOLLS
MINISTER FOR HEALTH and AMBULANCE SERVICES

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