4 March 2022

Committee Secretary
Community Support and Services Committee
Parliament House
George Street
Brisbane Qld 4000

Via email: cssc@parliament.qld.gov.au

Joint submission to the Community Support and Services Committee regarding the Public Health and Other Legislation (Extension of Expiring Provisions) Amendment Bill 2022 on behalf of Red Union Group and its affiliates.

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1. Executive Summary

While the unions acknowledge the need to show caution during this pandemic, we have seen great industrial harm result from various measures enacted under the emergency measures. The stage of the pandemic we now find ourselves in with Omicron means that the conversation around proportionality and reasonableness must be had. Chronic understaffing, cutting of WHS corners, contraventions of workers' rights have all become the norm and those negatives have now outweighed any positives that could come from sustained emergency powers and mandates.

We suggest a far better approach is to let workers decide, as is their usual *right* under WHS legislation at a local employer level. A bolstered workforce with the instituting of rapid antigen tests for all workers would lead to a reduction in anxiety and a return to safe staffing levels. This does not need to be mandated by Governments. The removal of political interference would mean common sense worker-driven outcomes.

2. Who are the unions

Joint submission to Community Support and Services Committee regarding the Public Health and Other Legislation (Extension of Expiring Provisions) Amendment Bill 2022.

Prepared on behalf of the:

1. Nurses' Professional Association of Queensland
2. Teachers' Professional Association of Queensland
3. Professional Drivers' Association of Australia
4. Australian Medical Professionals' Society
5. Sworn Officers' Professional Association of Australia
6. Independent Workers' Union of Australia

Herein referred to as the "Red Unions".

Each of these unions are defined as such Federally[1] and note that the State Government is trying to nefariously attack and undermine workers' right to organise under any banner that they choose by fiddling with definitions under the State Industrial Relations Act. At the time of writing we represent 16,880 members nationally with 13,000 residing in Queensland.

[1] *Australian Human Rights Commission Act 1986* (Cth) s 3 Interpretation definition of "trade union".

2.1 Statistics on those we assisted with issues related to Public Health Directions

Traditionally across these unions we would receive 1,000 written enquiries and roughly similar phone calls per month. With the introduction of some of the measures taken under the Public Health legislation our enquiries jumped to 13,000+ online and similar via phone.[2] Our membership almost tripled over the course of 3 months due to members being left behind by the traditional union movement. We have almost 1,000 general protection matters in the Fair Work Commission, over 500 and climbing public service appeals (fairness reviews) in the Queensland Industrial Relations Commission, a judicial review application filed and many other matters in other jurisdictions. A monsterous effort from relatively small unions that don't have the benefit of massive warchests that other unions do.

2.2 Traditional union movement has failed

Our union members took the controversial view that if a member pays their dues, they should be represented. **A clear contrast to other unions**. In the early days of the pandemic, this Government has been supported at every turn by the ALP-aligned union movement. Whether it be the beginning of the pandemic when PPE was banned, then rationed and then microwaved to be reused and then deficient PPE made mandatory. There must be some logic to this but it certainly escapes the members of our unions. Further, when the bungled roll out of mandates came, the traditional union movement didn't just flee the field, they were complicit in poor WHS consultation and compliance. In many cases there were no risk assessments, consultation with workers was non-existent and certainly not conducted at a PCBU level as is required. Employers have defended their position by saying other unions were consulted. If this is the case - where are the risk assessments? Where is the consultation of *all* workers?

3. Rationale behind not extending

Predominantly, the rationale behind current restrictions is to limit transmission of the COVID-19 virus, and to protect vulnerable people who may be at risk of severe illness. The situation in Queensland, and Australia in general, has changed. Significant reductions in hospitalization / serious illness, and emerging evidence questioning the efficacy of vaccination against the highly-transmissible Omicron variant[3], indicate the pandemic has become endemic. In fact admissions by the Pfizer CEO reiterate that double-dose vaccination against Omicron is insufficient.

[2] See appendix 1
[3] See Appendix 2

"The two doses, they're not enough for omicron," Bourla said. "The third dose of the current vaccine is providing quite good protection against deaths, and decent protection against hospitalizations."

The BBC went on:

"Two-doses of Pfizer's or Moderna's vaccines are only about 10% effective at preventing infection from omicron 20 weeks after the second dose, according to the U.K. data."[4]

This raises concerns around whether mandated boosters are on the horizon in accordance with health data and then the necessary flow-on impact that non-compliance may have on the already diminished workforce.

Increasingly, jurisdictions around the world are removing all, or almost all, COVID-19 related restrictions. The UK (from 26 January 2022), Denmark (from 1 February 2022) the Netherlands (25 February 2022) and even elements of Government policy in Queensland, such as the repudiation of contact-tracing (from 31 December 2021), all support the recognition that the pandemic has become endemic. Public opinion in these jurisdictions overwhelmingly supports the return to normalcy.

It is far more reasonable to let hospitals and other employing entities make their own determinations, tailored to their specific circumstances. Let the workers decide.
For example, voices from the medical community promote the common sense approach of rapid antigen testing all nurses on a two day cycle and allowing *all* healthy nurses to work while keeping unwell nurses at home.

We estimate that there has been a workforce reduction of 10% through being forced out of the workplace and early retirements. This represents a completely avoidable crisis in one of our most critical industries, placing even greater pressure on already understaffed departments and industries, with those in rural, regional and lower socio-economic communities hit hardest. This is creating a vicious cycle of burnout with those that remain and Queenslanders can expect further resignations and diminution of the workforce.

The impact of continuing restrictions on livelihoods, mental health and public finances is pervasive and well-documented. Further, it is not clear that the benefits to public health outweigh the attendant public health consequences. Resources devoted to emergency-era restrictions are necessarily resources diverted away from other public health issues. With much of South-East Queensland recovering from natural disaster, exacerbating a backlog of neglected health issues unrelated to COVID-19, it is unconscionable that healthy Nurses and other Medical Professionals ready, willing and able to work are prevented from alleviating the staffing crisis by returning to work.

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[4] https://www.cnbc.com/2022/01/10/pfizer-ceo-says-two-covid-vaccine-doses-arent-enough-for-omicron.html

Already, we have seen the impacts of nurses being forced out of the profession on the healthcare system. Nurses are at the brink in hospitals all around Queensland, who recently reported severe understaffing, daily code yellows, repeat 12 hour shifts and no lunch/bathroom breaks or public holidays to be the new normal.

Hospitals already struggling with COVID-19 that were hit hardest by the States mandates and as a result, staff shortages and bed/ ward closures include: Gold Coast University Hospital, Hervey Bay Hospital, Ipswich Hospital, Caboolture Hospital and Princess Alexandra Hospital. These, and other hospitals reported severe blowouts in patient ratios to 1:7 during day shifts, 1:10 during night shifts, severe breaches of the fatigue management policy, staff shortages of 5-10 staff in emergency departments, and redeployment of staff to wards without proper training risking both patient care and nurse registrations. Critical wards including emergency, critical care, palliative care and high-risk dementia wards are only some of the wards that have closed around Queensland.

3.1 Cost of emergency powers on Queensland Health

With thousands of nurses stood down with pay initially, our unions stood as a bulwark against mass unfair dismissals, costing Queensland Health over $1 million a week to pay healthy nurses to sit at home. They want to work. Further significant cost is likely to be borne by Queensland Health as further legal scrutiny is placed on their industrial breaches while trying to comply with these emergency powers.

The plain fact is, returning decision-making power to Medical Professionals (read: nurses & doctors; not bureaucrats and politicians) will mean more nurses in more Hospitals, helping more Queenslanders.

Any continuation of specific emergency-era restrictions should be subject to a sober and judicious review considering mental health, financial and social costs weighed against probative benefits to public health. Absent such a review, or upon finding that emergency-designation is no longer justified, reasonableness dictates that the legislation be allowed to fade away, like the last remnants of a bad dream.

3.2 Cost of emergency powers on Queensland Teachers

As has been previously outlined to the Department of Education by the TPAQ, the effect of mandates has had a crippling effect on staffing in schools. Notably, Queensland Health allowed unvaccinated workers to attend schools where a critical workforce shortage exists, so long as they conducted polymerase chain reaction (PCR) testing each day.[5]

[5] r 27, *COVID-19 Vaccination Requirements for Workers in a high-risk setting Direction* (No. 2) - https://www.health.qld.gov.au/system-governance/legislation/cho-public-health-directions-under-expanded-public-health-act-powers/workers-in-a-high-risk-setting-direction

This is despite the fact that PCR testing does not produce immediate results, and for many regional educators, getting a PCR test takes hours of travel time out of their day. In the peak of the Omicron spread, some educators reported that results took up to seven days to receive back. This requirement has been carried through in subsequent directions, despite it being two months since the Queensland Government has allowed the self-reporting of rapid antigen tests in lieu of PCR test results.

The complicated nature of the directions have proven confusing for private schools, who in multiple instances have interpreted the directions to require unvaccinated educators to wear PPE. However, section 27 of the directions only require it in specific environments. In Queensland Health's Personal protective equipment (PPE) and infection control guidance, it would appear that this is largely required in clinical settings.

This measure appears designed to prevent the spread of Coronavirus, rather than protect the public health system, which has always been relied on as reasoning for vaccine mandates. Given the ability for vaccinated staff to transmit Covid-19, it appears to be an unreasonable requirement to place on unvaccinated staff. In addition, by needlessly requiring older testing technology, it is causing undue stress on some of our state's hardest working educators.

Teachers report harassment and bullying from colleagues, particularly in regional communities where community integration is more apparent. Teachers who were already unable to work as a result of mandates (despite having already contracted COVID-19 and being advised by her doctor not to be vaccinated) report being unable to attend their schools as a parent without being heckled.

The cost to the education of students cannot be understated, once again with rural, regional and lower socio-economic areas being hit hardest. Entire year levels of students have been sent home on different days in regional Queensland as the education system struggles to deal with teacher shortages.

3.3 The human cost of mandates

The sledgehammer approach of a "one-size fits all" approach to Queensland workers has proven to have disastrous effects.The Government's 'make-it-up-as-you-go-approach' is in every case superseded by the common sense outcomes of letter workers' on the ground developing a risk assessment that is proportional and rational for their workplace. The Queensland Government's blanket approach mandates had a very real human cost on people who were pregnant or breastfeeding, on leave, had underlying health issues, religious exemptions, and more.

3.4 The human cost of emergency powers on nurses, doctors and other healthcare professionals

Doctors who have provided medical exemptions (even temporary) to their patients, and who would be more familiar with their patient's circumstances than any bureaucrat, have been overruled by policy decisions guided by politicians who have never treated a patient.

Health professionals attending events hosted by elected parliamentarians in their private time without representing themselves as health professionals have had their registrations reported to regulatory bodies in what can only be described as egregious overreach by regulatory bodies and a sad day for democracy.

3.5 The human cost of emergency powers on police officers

Decades of experience has been lost from the Police Service, with many Officers being left with black marks against their names in unnecessary overreach from Government officials.

Police have been forced out of the profession they love and away from their duty of service to the community.

The Queensland Government must ask itself whether the sacking of Police Officers in the name of protecting the community actually achieves this goal.

4.0 Conclusion and Summary

Workers make better decisions than politicians and bureaucrats. It is a longstanding workplace right to be consulted about risks in their workplace, and changes in their workplace. This pandemic has caused enormous hardship to Queensland workers and it is now time for the state government to get out of the way.

Omicron dominant & mild strain

The vaccines undoubtedly reduced the likelihood of serious effects or hospitalisation throughout the pandemic when the Alpha, Delta etc variants were the dominant strains. While it is far too early to conclusively say *how* much more mild the Omicron variant is, initial pre-print data supports sometimes extremely high levels of reduction in hospitalisation (up to 50%) of those the contract the Omicron variant. Questions have been raised as to whether this is truly a function of Omicron being more mild or whether it is a function of population level immunity (both natural and vaccination). The true cause, or whether both factors are in play, is moot to the public policy conclusion to be drawn, the time for this public health emergency is coming to an end.

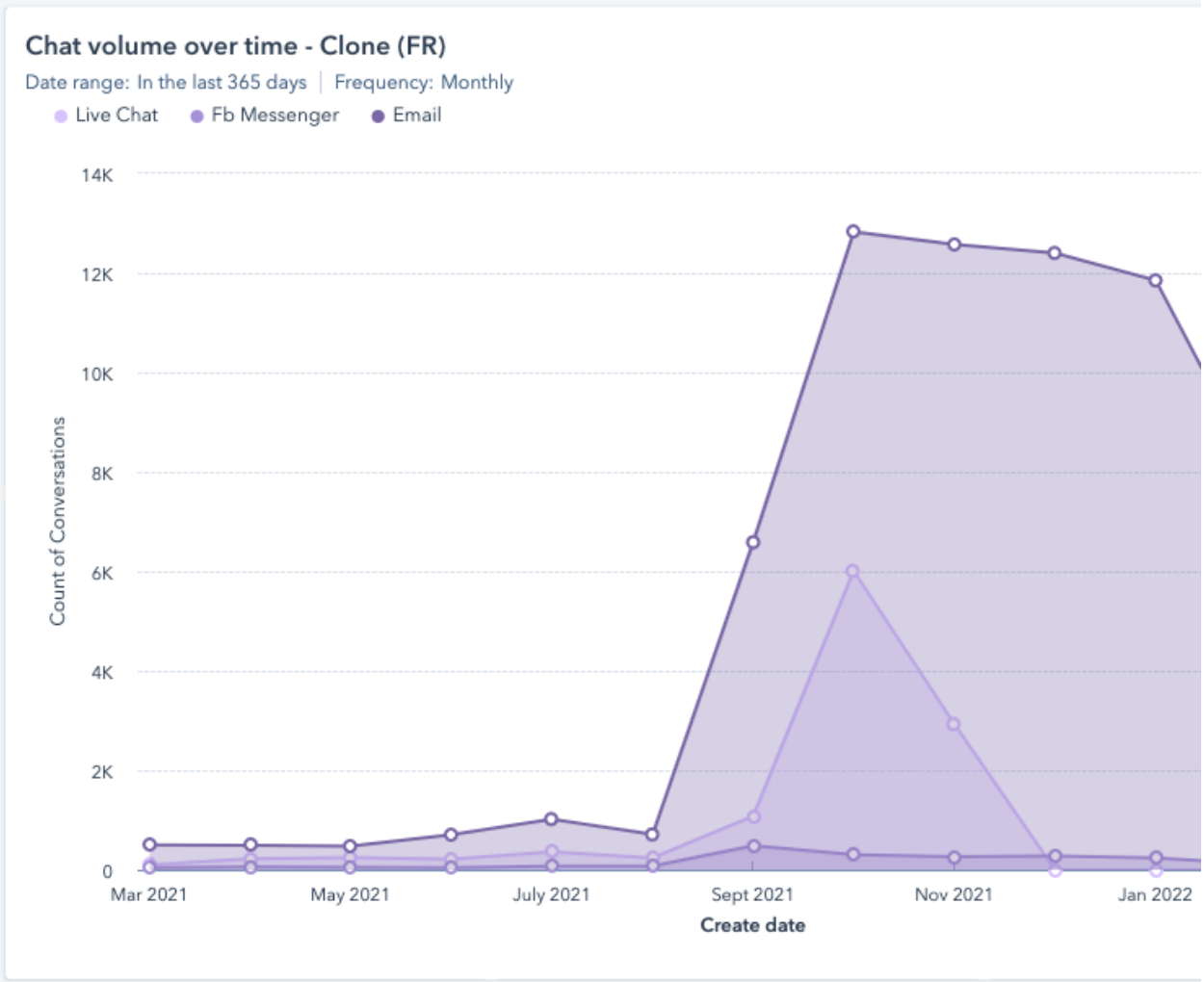
Major impact on workers and their families.

While it is too early to measure the long term impacts of mandatory vaccination and the public health emergency provisions on workers and their families, an explosion of submissions to Courts and Commissions around the country as well as an sharp increase in membership of social media groups in Australia would suggest that tens of thousands of Australian workers at least have already or will soon have their employment terminated, contracts not renewed or extended or casual shifts dry up because of vaccine mandates.

With many states now moving to mandate booster shots, and accepting the limited duration and evidence of medical efficacy for sustained booster campaigns, this rightly raises the question, are the public policy scales now tipped against a mandatory vaccination regime. Will the loss of gainful employment for tens of thousands of workers really be less significant than the marginal increases in vaccination given the Australian population overwhelmingly vaccinated themselves voluntarily prior to mandates.

Workers' First, Bureaucrats Last.

Appendix 1


Chat volume over time - Clone (FR)
Date range: In the last 365 days | Frequency: Monthly
Live Chat
Fb Messenger
Email
14K
12K
10K
8K
6K
4K
2K
0
Count of Conversations
Mar 2021
May 2021
July 2021
Sept 2021
Nov 2021
Jan 2022
Create date

Appendix 2

Vaccine efficacy against Omicron

There has been significant research, first emerging in late 2021, on the antibody evasion capacity of the Omicron strain. The fold reduction in neutralisation is far greater than previous strains. According to The Kirby Institute (UNSW), Omicron has a 17–22-fold reduction in neutralisation titres in laboratory tests (a highly predictive test for vaccine efficacy). 'Neither vaccination with two doses of AstraZeneca nor Pfizer were able to stimulate an antibody response strong enough to neutralise Omicron in our assays among the samples we tested,' Associate Professor Turville said. Separately, Danny Altmann, an immunologist at Imperial College London has stated "We're in totally uncharted territory for vaccinology… we've stumbled into a de facto programme of frequent mRNA boosters as an emergency measure, but this really doesn't feel like the way to go."

While the anemic protection against Omicron afforded by a double dose of one of the approved vaccines has been used to trumpet the push for mandatory booster shots, what such calls have failed to take into account in that regard is the growing evidence of both diminishing returns from subsequent booster shoots (beyond three at least) and the significant time limitations on any additional protection afforded by a booster shot.

Israeli researchers who collected data from June to November last year when Delta was dominant (Delta has a significantly lower fold reduction of less than 2 for context) have indicated that the immunity from a third (mRNA booster) shot wanes within months, mirroring the decline after two doses.[6]

This would suggest that, if public policy considerations are determined to warrant a single booster, then any booster campaign is either for an extremely short efficacy timeline or will be a prelude to a sustained and/or permanent (mandatory) booster campaigns. The reality of this is not being communicated to the public presently, where the open imputation from political commentary in Australia would suggest there is a sustained and significant benefit to a booster shot in perpetuity. Something which remains very much undetermined at a public policy level. Indeed, given even boosted people are not significantly less likely to transmit Omicron, the considerations are more in line with an individual's right to make private health decisions with their medical advisors and not the domain of the employer or government public policy.

Israeli researchers have concluded that "The decision to allow the fourth vaccine to vulnerable populations is probably correct and it may give a little benefit — but not enough to support the decision to give it to all of the population". As Jonathan Sterne, professor of medical statistics and epidemiology at the University of Bristol (Bristol, UK) noted that while a booster shot offers short-term reduction in clinical events, "fourth doses are mainly being done on a precautionary

[6] https://www.medrxiv.org/content/10.1101/2021.12.27.21268424v1

basis; we have very little evidence of their effect either from studies of immune function or from observational studies of clinical events".[7]

In light of this, the Red Union's submit the need for a public health emergency has now come to an end as we move from a containment phase to a more generalised approach of mitigation.

[7] https://www.medrxiv.org/content/10.1101/2021.12.27.21268424v1