



Submission to The Finance and Administration Committee

*Work Health and Safety and Other Legislation
Amendment Bill 2015*

June, 2015

Queensland Nurses' Union



Introduction

The Queensland Nurses' Union (QNU) thanks the Finance and Administration Committee (the Committee) for providing the opportunity to comment on the *Work Health and Safety and Other Legislation Amendment Bill 2015* (the Bill).

The QNU is the principal health union in Queensland. Nurses and midwives are the largest occupational group in Queensland Health and one of the largest across the Queensland government. The QNU covers all categories of workers that make up the nursing and midwifery workforce in Queensland including registered nurses, registered midwives, enrolled nurses and assistants in nursing who are employed in the public, private and not-for-profit health sectors including aged care.

Our more than 52,000 members work across a variety of settings from single person operations to large health and non-health institutions, and in a full range of classifications from entry level trainees to senior management. The vast majority of nurses and midwives in Queensland are members of the QNU.

Our submission addresses specific aspects of the Bill that will:

- restore right of entry powers for Work Health and Safety (WHS) entry permit holders;
- empower trained health and safety representatives (HSR) to direct workers to cease unsafe work; and
- amend the current incident notification requirements to include an additional requirement for employers to notify the regulator when a worker is absent for more than four days due to a workplace injury.

Restore right of entry powers for Work Health and Safety (WHS) entry permit holders.

Nurses work in a unique occupational environment that can require rotating and night shifts, long hours, prolonged standing, lifting, and exposure to chemicals, infectious diseases, x-ray radiation and other hazards. Hazardous manual tasks can contribute to musculoskeletal injuries which can be permanent and impact on a person's working ability and quality of life as well as the productivity and economic performance of their employer. Musculoskeletal injuries include:

- muscle strains and sprains;
- ligament or tendon rupture;

- prolapsed intervertebral discs;
- tendonitis of the shoulders and elbows;
- carpal tunnel syndrome

Hazardous manual tasks involve one or more of the following:

- repetitive or sustained force;
- high or sudden force;
- repetitive movement;
- sustained or awkward posture;
- exposure to vibration.

Because nurses work extended, unpredictable hours with a lack of regular breaks they are more likely to experience elevated fatigue levels. Night duty rotations are common, particularly in specialist units where nurses must maintain careful and astute observations of their vulnerable patients. The continual demands of their work places them at high risk of musculoskeletal disorders and diseases and they are increasingly exposed to workplace violence.

All of these factors can negatively affect nurses' and midwives' health and performance. Thus, nurses' safety is intrinsic to patient safety.

For these reasons the QNU welcomes the replacement of s119 of the *Work Health and Safety Act 2011* (the Act). Although we had always been judicious in acting under this provision before the changes made by the previous government¹, we relied on the ability to enter a workplace because an incident or risk has required immediate action on our part and that of the employer. This is an important workplace right that allows workers who are exposed to injury or illness the opportunity to have the situation assessed and rectified quickly.

We supply the following case studies that took place prior to the LNP changes to demonstrate the significance of right of entry provisions where notice is not required.

Case Study 1

The QNU became aware of an incident at a facility where a nurse had sustained significant injuries as a result of a fall. A QNU official sought entry to the facility from the employer to view the location where the incident occurred.

The official met with the facility manager who, together with three other staff, accompanied him to the Pan Room. Pan rooms house machinery for washing and sterilising bed pans and

¹ Similarly s90I of the previous *Workplace Health and Safety and Other Acts Amendment Act 2006*.

urinals. In this instance, the room contained a non-slip mat with bevelled edges in front of the sanitiser. At the back of the sanitiser was a bowl containing clear liquid situated directly below an outlet from the sanitiser and it appeared to have overflowed on to the floor.

Neither the facility manager nor any of the other staff claimed any knowledge of the bowl. The official requested testing of the sanitiser and there appeared to be no leakage on that occasion.

A review of information provided by the employer indicated that there had been previous occasions where there had been water on the floor in the pan room from a leaking sanitiser, and that the incident had been reported to the regulator without any follow up action.

The QNU requested immediate repair of the leaks and recommended that proper drainage for any overflow would be the higher order control in eliminating the hazard rather than non-slip mats.

Case Study 2

The QNU became aware that members were being exposed to an occupational violence hazard as a result of a 'blind spot' in the annex area of a medium secure unit of a mental health facility after a patient had violently assaulted a nurse. In this instance the nurse was subject to action by the employer because she had entered the area and could not be observed properly.

When an official arrived at the premises he noticed a number of internal memos, notices etc. were pasted across the glass viewing pane thus obscuring parts of the annex area holding mentally ill patients. The assault had occurred in part because the nurse could not immediately be observed interacting with the patient. It is a fundamental principle in minimising occupational violence hazards to be provided with clear lines of sight to reduce risk.

The QNU requested the removal of the material and notified the employer of their failure.

Case Study 3

The QNU became aware that members working in an endoscopy unit may have been exposed to glutaraldehyde, a hazardous substance used in the sterilisation/cleaning process. As a result of this exposure a member experienced a range of symptoms which resulted in her having to cease employment. The union sought immediate access to the site and evidence from the employer that proper risk assessment, training and procedures had been carried out. In the first instance the employer refused entry to the QNU until the regulator intervened.

The QNU continued to monitor the situation and noted that training records obtained using the relevant legislation indicated that workers received training on glutaraldehyde use *after* the union's initial request to enter the premises and *prior* to finally receiving permission to come onsite.

The employer has since changed the chemicals and equipment used for sterilisation.

The case studies we have cited above indicate how a prompt investigation on our part revealed workplace hazards leading to illness and injury that may have caused further damage if left unchecked or rectified without due diligence. Furthermore, total reliance on the regulator does not always mean issues are investigated.

To demonstrate the damaging effect of the requirement to give 24 hours we give the following recent case study.

Case Study 4

A QNU WHS entry permit holder attended a Queensland Health facility post Right of Entry changes and provided the required 24 hours notice. In this particular circumstance the QNU official had significant concerns for members' safety and under the pre-LNP legislation would have sought entry without giving notice. These concerns arose during discussions with members who described multiple episodes of violence in the workplace. On that basis our official formed a reasonable suspicion our members were being exposed to occupational violence resulting in staff injuries. However, on arrival the official found the work area had a number of vacant beds and appeared very settled. This was significantly different to the situation reported by members.

Soon after, a member contacted the QNU and advised that immediately prior to the official's arrival the health facility had moved patients out of the work area in question. The member reported these actions were unusual and could not recall the occupancy in that work area ever being as low as it was on the shift when the official visited.

The QNU believes the employer's superficial and predictable response occurred to reduce aggression levels in this work area so it would appear the members' concerns were unfounded. The member confirmed that following the QNU official's visit occupancy levels returned to normal.

Clearly the requirement to provide 24 hours notice enabled the employer to make the workplace appear safe.

Empower trained health and safety representatives (HSR) to direct workers to cease unsafe work; and

We also welcome the reinstatement of trained health and safety representatives to direct workers to cease unsafe work. There were no reasons given for withdrawing this provision by the previous government, yet it not only enables the health and safety representative to take action, it also prescribes the conditions upon which they may make decisions, their obligations to inform the person conducting the business or undertaking and the requirement that they have completed training prescribed in the regulations.

These are not frivolous decisions. If the representative must be qualified to act under these provisions, then they clearly do so based on information and training.

Amending the current incident notification requirements to include an additional requirement for employers to notify the regulator when a worker is absent for more than four days due to a workplace injury

The QNU supports these amendments. In our view, the current regulation around the reporting of injuries would rarely require a Health sector employer to report despite nurses and midwives sustaining significant injuries that can result in them not returning to work. As a consequence the inspectorate may be unaware of injury trends and problems within the health and community sector.

Conclusion

Nurses and midwives work tirelessly to keep the health system safe for everyone. At the very least, they deserve a safe workplace so they can continue to provide the services that Queenslanders have come to expect. The re-instatement of these important workplace rights will enable nurses and midwives to carry out their work in a safe and secure environment. And in the end, this will benefit each and every one of us as we call on them to care for us in our time of need.