

Committee Secretary

Health, Communities, Disability Services and Domestic and Family Violence Prevention  
Committee,

Parliament House,

George Street,

BRISBANE QLD 4000

Email: [health@parliament.qld.gov.au](mailto:health@parliament.qld.gov.au)

Dear Committee Secretary,

**Submission to the Queensland Parliament Committee reporting on the  
Health Practitioner Regulation National Law and Other Legislation Amendment Bill 2018**

I value the opportunity to provide this submission to the inquiry regarding the Queensland Parliament Committee reporting on the Health Practitioner Regulation National Law and Other Legislation Amendment Bill 2018.

I understand that the objectives of the Health Practitioner Regulation National Law and Other Legislation Amendment Bill 2018 are to:

- amend the Health Practitioner Regulation National Law (National Law) as agreed by the Council of Australian Government (COAG) Health Council on 12 October 2018 to:
  - introduce reforms to mandatory reporting by treating practitioners, to ensure health practitioners have confidence to seek treatment for health conditions, while protecting the public from harm, and
  - double the penalties for holding out and related offences under the National Law from \$30,000 to \$60,000, and introduce a maximum imprisonment term of three years for the most serious offences
- makes consequential amendments to the Queensland local application provisions of the *Health Practitioner Regulation National Law Act 2009* (Qld) to:
  - align Queensland's approach to mandatory reporting by treating practitioners with the approach in the National Law by removing a Queensland-specific provision, and
  - provide for circumstances in which the holding out and related offences are prosecuted on indictment and summarily in Queensland, and
- Make consequential amendments to the *Ambulance Service Act 1991* (Qld) and *Hospital and Health Boards Act 2011*(Qld).

This submission focuses specifically on the amendment's objective to:

“introduce reforms to mandatory reporting by treating practitioners, to ensure health practitioners have confidence to seek treatment for health conditions, while protecting the public from harm”.

I am a former medical practitioner and understand how important it is for doctors to be able to access health care for themselves to ensure that they are able to provide high quality care to their patients.

I am writing because I have deep concerns that the legislation in its current form will increase the barriers that health practitioners experience when seeking health care for themselves. This increases the risk that a clinician will continue to practice without seeking care early in their illness. Given the link between the health of the practitioner and the care provided to their patients, this proposed legislation will fail to achieve its aim to maximise the public's protection from harm. Reducing the health access available to the doctor, increases the risk that a doctor will fail to address their burnout or health issues. Such conditions are well known to be associated with patient harm including increased medical errors, unprofessional conduct and failure to deliver empathic care.

Mandatory reporting has been linked to recent medical suicides. Previous attempts at legislative amendments to the Queensland legislation in relation to mandatory reporting obligations have failed improve access to health care for medical professionals.

These new proposals are even more complex and include the changes to the wording from “Risk of substantial harm” to “Substantial risk of harm”. Despite the explanatory notes, medical practitioners, because of their medical training, will view this wording as a much lower threshold for reporting.

The explanatory notes advise that the legislation be interpreted in a ‘holistic’ manner. The very need to introduce this concept highlights the lack of clarity offered within the legislation. The difficulty that this legislation raises in the interpretation of the requirements for reporting will cause significant confusion for treating doctors determining the need to report with the likely consequence that the threshold for reporting will be lowered further.

Together, the complexity of the wording and the changes to the wording, will increase the barriers for health practitioners seeking care; reducing their confidence to access care for themselves, especially for mental health issues. This is deeply concerning and will have a detrimental effect on health practitioners, their families, their health care teams and most importantly their patients – the Queensland community.

In Western Australia, where there is an amendment (WA amendment) that provides an exemption for the treating health practitioner, this health access barrier has been effectively addressed. The Western Australian model offers clarity for both treating practitioners and health practitioners seeking care.

The wording of the WA amendment is simple. It provides reassurance to doctors and other health practitioners that they can access confidential health care. Hansard records that this amendment was introduced on the floor of parliament (by the people) recognising the importance of protecting the public by enabling health practitioners to seek health care.

The amendment adds an extra category of exemption in s 141(4):

(da) the first health practitioner forms the reasonable belief in the course of providing health services to the second health practitioner or student;

This amendment is the only legislative change that is supported by evidence that will improve the health access of health practitioners while maintaining public safety. It would be wise to use this established evidence as the basis for future changes. The WA amendment was introduced in October 2010. It is clear, concise and its intent is readily understood by the health practitioner, while addressing the legislative purpose. Importantly, The Western Australian amendment still ensures that doctors and other health practitioners have a professional obligation to report a health practitioner when there are concerns related to their practice due to boundary violation, impairment, substance abuse or unprofessional behaviour. The legislation does not remove this obligation; even though it is not mandated, the obligation remains.

This approach improves community safety by both increasing the health access of doctors and ensuring that those who pose a risk are still reported. It is known that in Western Australia, mandatory notifications continue to be made and treating practitioners still report their patients in Western Australia, even though they are not mandated to do so.

One of the key recommendations for change to the legislation was to provide national consistency regarding the National Law and specifically regarding the mandatory notification section of this legislation. The proposed changes also fail to this recommendation that was previously made to COAG. Introducing the WA amendment would also enable national consistency.

In summary, the current mandatory reporting obligations for registered health practitioners under the *Health Practitioner Regulation National Law (National Law)* have created significant barriers for doctors accessing health care. The current proposal for the changes to this legislation fails to address these barriers and, in their current form will increase these health access barriers. The current proposal for the changes to this legislation also fails to enable a nationally consistent approach to mandatory notifications.

This failure will impact upon the health of the health practitioners in Queensland, and very importantly, this failure will impact upon the health of the members of the Queensland community.

I humbly provide this submission with the hope the amendments to section 140 are reconsidered and that the WA amendment to section 141 is adopted. This is the only evidence-based solution and its introduction has been supported by the experts in this area. The WA exemption to mandatory reporting will provide Australian health practitioners with the assurance of health access while ensuring better protection for our community.

Yours faithfully,

- Vicky Dawes
- Margaret Kay
- Ross Phillipson
- Dr Michaela Kelly
- Peter Hegerty
- Dr Shahina Braganza
- Dr Malcolm Forbes
- Jennifer Hawes
- Jocelyn Hawes
- Lawrence Hawes
- Sarah Melen
- Geoff Toogood
- Naomi Newton
- Dr Diane Spearritt
- Dr Lisa Cavaye
- Peter O'Sullivan
- Kaaryn Lawson
- Amanda Fitpatrick
- Dr Timothy White
- Jennie Morgan
- Dr Gordon Mor
- Louise Lee
- Peta Grandin
- Rebecca Bosomworth
- Nancy Sturman
- Dr Alison Green