Submission No. 044
Received 11 July 2016

qnada
QUEENSLAND NETWORK OF ALCOHOL AND OTHER DRUG AGENCIES LTD.

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Research Director
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To Whom It May Concern,

Thank you for the opportunity to provide a submission to the *Public Health (Medicinal Cannabis) Bill 2016.* Please find our submission attached.

QNADA represents a dynamic and broad-reaching specialist network of non-government alcohol and other drug (NGO AOD) treatment and harm reductions services across Queensland. We have 36 member organisations, representing the majority of specialist NGO AOD providers.

QNADA would be happy to provide further information, or discuss any aspect of this submission. We would also like to express our interest in discussing the matter further at the public hearings.

Please don't hesitate to contact me at [redacted] or by calling 07 [redacted].

Yours sincerely

Rebecca MacBean

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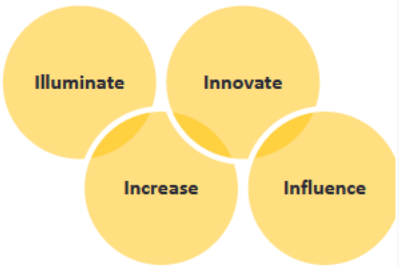
Response to the *Public Health (Medicinal Cannabis) Bill 2016*

July 2016

QNADA Vision

A cohesive, sustainable and high quality NGO AOD sector, that delivers the best possible outcomes for the Queensland Community. Four overarching strategies have been developed to support achievement of our vision



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This submission has been prepared by the Queensland Network of Alcohol and Other Drug Agencies (QNADA). The content of this submission is informed by consultation with QNADA member organisations providing treatment services in Queensland, as well as a review of research and other jurisdiction's legislation.

We note there is strong public support for the use of medicinal cannabis to treat a growing number of medical conditions, including epilepsy, MS, chronic pain and cancer treatment related nausea. The 2013 National Drug Strategy Household Survey found almost three quarters of Australians support the development of clinical trials for medicinal cannabis research and two thirds support a legislative change to allow more people to use medicinal cannabis as a form of treatment for their medical condition/s.[1] We commend the State Government for taking steps to introduce a policy framework to support access to medicinal cannabis.

We provided a submission on the working draft in April 2016 and note several of our suggestions have been incorporated into the Bill. We commend the Department for inserting the new patient-class pathway, as it has the potential to reduce some of the burden around the application process for people who need urgent access to treatment. We were concerned with the previous iteration that undue delay might serve to push people towards the illicit drug market and the inherent risks that it presents.

There are a number of provisions in the final Bill that we find concerning, particularly those which we see reflect a stigmatisation of drug users and the disproportionate focus on criminalising and penalising people.

Criminal history checks:

We again raise our serious concerns regarding the need for wide reaching criminal history checks for both practitioners and patients. For example, in determining the 'suitability' of a patient to undergo treatment with medicinal cannabis, a patient's criminal history (in so far as it is relevant to the application) is identified as a determining factor for deciding their suitability.[2] We query why a person's criminal history is relevant to a clinical determination regarding accessing a medical treatment?

Additionally, where a medical practitioner is applying for approval not only is their criminal history relevant,[3]but their 'character and standing' is also identified as a determining factor of their suitability.[4] We find this curious and again point out that the registration processes for both medical practitioners and pharmacists already includes criminal history checking. We query the relevance of repeating this process and as per our previous submission again suggest the process for accessing opioid based pain relief might provide a useful comparison. The starting point of regulation assumes honest intent by both the prescriber and the patient, with monitoring systems in place to detect both inappropriate prescribing

[1]AIHW.(2014) National Drug Strategy Household Survey Detailed Report 2013. Canberra: Australian Institute of Health and Welfare
[2]*Public Health (Medicinal Cannabis) Bill 2016*, s 11(c).
[3] Ibid, s 10(c)
[4]Ibis, s 10(b).

and patients seeking prescriptions from multiple health professionals. We suggest this would be a more appropriate approach.

We are particularly concerned about the waiving of protections under the *Criminal Law (Rehabilitation of Offenders) Act 1986*.[5] The explanatory notes clearly state this waiver will enable spent convictions to form part of a person's criminal history check for the purposes of the Bill. Spent convictions essentially recognise that criminal offending can be limited to a particular period of a person's life and ensure that a person who refrains from criminal offending for a significant length of time should not be unduly limited in their future endeavours. There is no justification for treating those who are seeking to access a medical intervention differently from other citizens in the State who have moved on from their criminal history. We assume this provision is intended to detect previous drug convictions and assert that it serves only to stigmatise people who may have only minor convictions that are almost certainly not relevant to clinical decision making. It is concerning enough that a non-spent conviction could impact a person's access to medicinal cannabis (and could in fact reflect the patient's attempts to access illicit cannabis for medicinal purposes), but to extend this to spent convictions is in our view discriminatory. In practice, could this provision prevent a person who was convicted of drug possession (or supply, for that matter) when they were 20 from accessing medicinal cannabis for cancer treatment decades later?

These examples highlight the number of provisions in the Bill which have the potential to stigmatise people seeking to use medicinal cannabis for their health condition/s, as well as the health professionals seeking to prescribe them medicinal cannabis. The Bill should be concerned with public health; however it appears to have an unnecessary interest in the criminal histories of individuals on both sides of the program. The World Health Organisation has identified illicit drug dependence as the most stigmatised health condition in the world[6] and we assert that this stigma is reflected in the Bill in the application process for both prescribers and patient criminal history checking, particularly the inclusion of spent convictions.

Patient's history of drug dependence

We note the process for approving a person's access to medicinal cannabis includes a consideration of their history of drug dependence.[7] We query the relevance of this provision given the potential for cannabis use to become dependent use is much lower than for, say opioids. Unfortunately this provision adds to the presumption that a person who had a substance use disorder should be treated differently from other people seeking treatment for their medical condition/s.

[5] Ibid, s 31.
[6] Kelly, John, Sarah Dow and Cara Westerhoff, 'Does Our Choice of Substance-Related Terms Influence Perceptions of Treatment Need? An empirical investigation with two commonly used terms'(2010) *Journal of Drug Issues*.
[7] *Public Health (Medicinal Cannabis) Bill 2016,* s 24(1)(h).

Criminalisation provisions

We reiterate the concerns raised in our earlier submission about whether it is appropriate to include provisions relating to warrants, search and seizure and impounding of property in a public health Bill.[8] We are concerned these provisions reinforce the perception that cannabis use is primarily a criminal matter, rather than a health matter. There are many Acts which already provide sanctions and penalties for crimes, such as the *Police Powers and Responsibilities Act 2000* (QLD) and the *Drugs Misuse Act 1986* (QLD). We do not see why it is necessary to duplicate these provisions in this Bill.

Special advisory panel

In our earlier submission we provided feedback about the special advisory panel. While QNADA welcomes the inclusion of a special advisory panel, particularly to guide decision making in the early stages of implementing the scheme or those which require highly technical expertise that may not be readily available within the Department. However, we remain perplexed by the inclusion of 'justice and law' officials in the makeup of the panel.[9] As aforementioned, this policy response is about public health and there should be no need for justice and law to be present on an expert panel whose role is to advise the chief executive about the clinical basis for treatment decision-making. The inclusion of justice and law serves to underline our concern that the stigma related to illicit cannabis use is being codified in this Bill. We reiterate our recommendation to revise the example membership composition to remove justice and law, and replace it with an alcohol and drug treatment professional.

Identification of medicinal cannabis users

We query whether the Department will be issuing identification cards, similar to those issued in Canada[10] for people who have a medicinal cannabis approval. We are concerned that there is no easy way for a person to demonstrate to police or other authorised persons that they are legally entitled to be in possession of medicinal cannabis unless they keep their approval authority with them at all times.

About the Queensland Network of Alcohol and Other Drug Agencies (QNADA)

QNADA is the peak organisation representing the views of 36 NGO AOD organisations. Through our knowledge of the sector, network of experienced members and links across complementary human service delivery sectors, QNADA is well placed to provide practical

[8] *Public Health (Medicinal Cannabis) Bill 2016*, Chapter 7.
[9] Ibid, s 172(3)(b).
[10] Health Canada, *Procedures for Accessing Dried Marijuana for Medical Purposes Under the Marihuana for Medical Purposes Regulations < http://www.hc-sc.gc.ca/dhp-mps/marihuana/access-acceder-eng.php>.*

advice and front-line service delivery experiences to inform policy and program advancement for the sector.

The sector consists of organisations involved in the continuum of care for individuals and their families affected by alcohol and drug use. QNADA members provide drug education and information, early intervention, outreach, detoxification, residential rehabilitation, psychosocial and medical treatment, relapse prevention, justice diversion, and social inclusion.