



Submission to

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

Public Health (Infection Control) Amendment Bill 2017

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submission

Introduction

The Queensland Nurses and Midwives' Union (QNMU) thanks the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee (the Committee) for the opportunity to make a submission to the inquiry into the *Public Health (Infection Control) Amendment Bill 2017* (the Bill).

Nursing and midwifery is the largest occupational group in Queensland Health (QH) and one of the largest across the Queensland government. The QNMU is the principal health union in Queensland covering all categories of workers that make up the nursing workforce including registered nurses (RN), registered midwives (RM), enrolled nurses (EN) and assistants in nursing (AIN) who are employed in the public, private and not-for-profit health sectors including aged care.

Our more than 57,000 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 in Queensland are members of the QNMU.

Public Health (Infection Control) Amendment Bill 2017

The QNMU notes the Health Minister has introduced the Bill to protect staff and patients of Health Care Facilities (HCF) from the risk of exposure to infectious conditions through improvements to the infection control framework. The Bill enhances the ability of the Department of Health (DoH) to monitor and enforce compliance by operators and staff of HCFs with the infection control framework, impose penalties for non-compliance and direct the operator of a HCF to take remedial action or cease performing a particular health service.

In that regard, the QNMU supports the general tenets of the Bill. We do, however, question the effect of such a regulatory approach on individual practitioners. The DoH will ask the relevant national boards for health professions registered under the *Health Practitioner Regulation National Law (Queensland)* to disseminate information to their members and registrants about the obligations imposed on the owners and operators of HCFs and those involved in the provision of declared health services about the changes in the Bill.

As a public interest measure, the Bill provides an important response to strengthening infection controls, however we are very concerned the wording now clearly identifies and attaches blame to the individual. Clause 5 replaces the existing reference under s151 of the *Public Health Act 2005* which refers to 'persons' involved in the provision of a declared health service must take reasonable precautions and care ...' with 'a person' involved in the

provision of a declared health service must take reasonable precautions and care ...'. The Bill introduces a new maximum penalty of 1000 units for the offending individual.

The Nursing and Midwifery Board of Australia (NMBA) plays an important role in maintaining professional standards. Together with the Office of the Health Ombudsman these agencies investigate and where necessary discipline a nurse or midwife who is found to have breached infection control obligations.

In attempting to clarify any ambiguity around the responsibilities of owners and operators of a HCF, the Bill appears to have singled out individual health practitioners to make them potentially liable to two sanctions – one by their regulatory authority and the other through the Bill.

The QNMU supports the Australian Commission on Safety and Quality in Health Care's Australian Open Disclosure Framework (the Framework) (2013a). Open disclosure is an open discussion of adverse events that result in harm to a patient while receiving health care with the patient, their family and carers (Australian Commission on Safety and Quality in Health Care, 2013a). The Framework has been officially endorsed by the Australian College of Nursing.

The Framework emphasises that open disclosure is a dialogue between two parties, is not a legal process and does not imply that an individual or service has blameworthy facts to disclose. Importantly the framework acknowledges that most harm caused by adverse health events is unintended and health service organisations should create environments that encourage identifying and reporting adverse events. Part of this process requires moving away from blaming individuals to focusing on systems that reduce the possibility of human error (Australian Commission on Safety and Quality in Health Care, 2013b, p. 2).

Therefore, the QNMU does not support the additional monetary sanction in s151.

If the committee determines the bill should include a penalty, then the penalty must apply to the HCF and only to an individual practitioner where that practitioner has been found knowingly to have caused harm.

The QNMU recommends deleting the Maximum penalty – 1000 penalty units from clause 5 of the Bill.

References

Australian Commission on Safety and Quality in Health Care (2013a) *Australian Open Disclosure Framework Better communication, a better way to care*, retrieved from <https://www.safetyandquality.gov.au/wp-content/uploads/2013/03/Australian-Open-Disclosure-Framework-Feb-2014.pdf>

Australian Commission on Safety and Quality in Health Care (2013b) *Frequently asked questions about open disclosure: clinicians* retrieved from <https://www.safetyandquality.gov.au/publications/open-disclosure-faqs-for-clinicians/>