



Research Director
Health, Communities, Disability Services and Domestic and Violence Prevention Committee
Parliament House
George Street
BRISBANE QLD 4000

20 April 2017

By email: hcdsdfvpc@parliament.qld.gov.au

Dear Research Officer,

Public Health (Infection Control) Amendment Bill 2017 (Qld)

I am writing to you as Queensland President of the Australian Lawyers Alliance (ALA). The ALA is a national association of lawyers, academics and other professionals dedicated to protecting and promoting justice, freedom and the rights of the individual.

The ALA welcomes the opportunity to provide a submission to the Committee regarding proposed amendments to the *Public Health Act 2005* (Qld) ('the Act').

Thank you for your attention in this important matter. I look forward to your prompt response.

Our standing to comment

The ALA is well placed to provide commentary regarding proposed amendments to the Act.



Members of the ALA regularly advise clients all over the country that have suffered injury or disability by the wrongdoing of another. Our members advise clients of their rights under current state based and federal schemes, including in cases of medical negligence.

Our members often contribute to law reform in a range of host jurisdictions in relation to compensation, existing schemes and their practical impact on our clients. Many of our members are also legal specialists in their field.

Effectiveness of current legislation

The ALA believes the current statutory framework for infection control is inadequate to protect patients and other persons, such as employees, at health care facilities. This is because Queensland Health cannot adequately monitor infection control practices, investigate potential breaches, enforce compliance with the statutory framework or take steps to rectify non-compliance.

Proposed amendments

Overall, the ALA endorses the proposed amendments, as we consider it strengthens the current statutory framework for infection control by:

1. Obligating owners and operators of HCFs to develop and implement infection control management plans (ICMPs) that comply with the Act and regulations, to review ICMPs at least every 12 months and to ensure that the health services provided at the health care facilities comply with the ICMP.
2. Enabling Queensland Health to monitor compliance with the Act by allowing them access to ICMPs and other stated information about procedures for preventing or minimising the risk of infection and by allowing immediate entry to a facility if there is an imminent risk of infection.



3. Enabling Queensland Health to enforce compliance by requiring operators to amend ICMPs if they do not comply with the Act and through the issuing of improvement notices and directions notices.
4. Enabling Queensland Health to stop an operator of a health care facility from providing health care services if the operator is contravening the Act and there is a serious risk of harm.
5. Introducing penalties for non-compliance.

However, the ALA would like to provide comments on the following two amendments:

(1) Clause 9 Insertion of new section 156B

The ALA generally endorses the insertion of the new section 156B. However, we are of the view that it would be onerous for authorised officers to state in the notice the way the ICMP must be amended under subsection 3(b). This is because the current drafting of the subsection suggests that the authorised officer is required to rewrite the ICMP so that it complies with the Act rather than the operator of the health care facility. The ALA proposes that subsection 3(b) be amended so that it states 'the reasons why the authorised person considers the ICMP does not comply with this part'. This would make it clear that the obligation is on the operator of the health care facility to amend the ICMP once the areas of non-compliance have been identified in the notice.

(2) Clause 13 Amendment of section 390

The amendment of section 390 will allow authorised persons to enter a health care facility without notice if they reasonably believe that immediate entry is necessary to prevent or minimise an imminent risk of infection to a person at the health care facility. While the ALA agrees that authorised persons should be able to enter a health care facility in these circumstances, we believe that it could be difficult to identify when there is an imminent risk of infection. Instead, we are of the view that entry without notice should be permitted to prevent or minimise a probable risk of infection.



Conclusion

Overall, the ALA believes the proposed amendments will strengthen the existing statutory framework and minimise the risk of infection to patients and other persons associated with health care facilities. For these reasons, the ALA endorses the proposed amendments. We would be happy to comment further on any issues we have raised in our submission.

Please do let me know if I can be of further assistance, in which case please direct correspondence to Anna Talbot, Legal and Policy Adviser, Australian Lawyers Alliance, [REDACTED]

Yours sincerely,

[REDACTED]

Michelle James
Australian Lawyers Alliance
Queensland President