

6 July 2017

Ms Leanne Linnard MP
Chair
Health, Communities, Disability Services and Domestic and Family Violence Prevention
Committee
Parliament House
George Street
Brisbane QLD 4000

By email to: hcdfsdfvpc@parliament.qld.gov.au

Dear Ms Linnard

**Re: Submission to Health Practitioner Regulation National Law and Other Legislation
Amendment Bill 2017**

The Queensland Branch of the Royal Australian and New Zealand College of Psychiatrists (QLD Branch) welcomes the opportunity to respond to the Health Practitioner Regulation National Law and Other Legislation Amendment Bill 2017 (the Bill).

The QLD Branch is pleased the Bill amends the *Health Practitioner Regulation National Law Act 2009* (Qld; the National Law) and the *Health Ombudsman Act 2013* (the Act) to further protect the health and safety of the public, improve fairness for complainants and practitioners, and improve the efficiency and effectiveness of the legislation.

Overall, the QLD Branch supports the amendments in the Bill related to complaints management, disciplinary and enforcement powers of National Boards and improved technical amendments in the legislation, and have minor concerns with regards to cross-border legislation alignment for health practitioners who provide services in Queensland and New South Wales. We have provided comment on these issues and a range of amendments below.

The QLD Branch has no objections to clause 20 which enables the National Board to ask for a broader range of information about a registered health practitioner's practice arrangements for example, where the practitioner is an employee, contractor, volunteer, or partner in a partnership. In the Bill this is referred to as 'practice information'. We also approve of clause 39 which enables the National Board to use this practice information to inform all places at which a health practitioner practises about health, conduct or performance action that is being taken against them. The QLD Branch is pleased this change is also to be reflected in the Act through clauses 80, 81 and 82 and that legislation alignment will occur.

We appreciate that the Bill has made the power to disclose practice information discretionary and recognises that depending on the risks to the public, the circumstances of the case and the particular arrangements of the practice, it may or may not be appropriate to notify other health practitioners working at the same premises. The Bill's Explanatory Notes also state that the National Boards and AHPRA will develop guidelines on the practice information (p.

13), and the QLD Branch is supportive of this proposal which would provide practitioners with clarity and transparency with regards to the new legislation.

Under these changes, where health, conduct or performance action is being taken against a health practitioner, a National Board is able to inform all places at which the person practices. This would not apply to New South Wales practitioners as New South Wales is a co-regulatory jurisdiction which does not participate in the health, performance and conduct process of part 8 of the National Law. The QLD Branch would like to highlight that health practitioners in South East Queensland (e.g. Gold Coast and south to the border) and Northern New South Wales may conduct health services in both states and the National Board is unable to inform places where a person practises in New South Wales that a health, conduct or performance action is being taken against a health practitioner in Queensland.

The QLD Branch approves of clause 24 which enables the National Board the power to take immediate action against a registered health practitioner if it reasonably believes the action is in the public interest. The QLD Branch is pleased this amendment will also occur in the Act through clauses 65 and 69 and that both pieces of legislation are similar to the *Health Practitioner Regulation National Law* in New South Wales.

We approve of the proposed change to section 155 of the National Law to provide for a National Board to revoke one type of immediate action and substitute another form of immediate action where it is found that new information requires change. We are pleased the change is also reflected in the Act to ensure legislation alignment.

The QLD Branch supports clause 36 of the Bill which expands the ability of the responsible tribunal to issue a prohibition order to prohibit a person from using any protected or specific title. This provides further protection to the public by ensuring that where a person is not a fit and proper person they cannot provide any kind of health service. We are pleased this change is also reflected in the Act through clauses 76 and 77 and that the approach aligns with the *Health Practitioner Regulation National Law* in New South Wales.

We have no objections to clause 37 which financially penalises a person subject to a prohibition order who fails to inform patients, employers or other entity where they are engaged of the prohibition order and who fails to include details of a prohibition order when advertising a health service. This ensures that the making of a prohibition order has an increased protective effect than what occurs at present whereby no offences are in place for persons who breach an order.

We are pleased that clauses 44, 46 and 48 have been introduced which require National Boards to keep a register of persons subject to prohibition orders and provides a copy of the prohibition order to the person in question, which does not occur at present. The proposed public national register will provide better transparency and accountability for the public and the persons in question. The QLD Branch suggests that the proposed public national register should be made easily accessible to the public, for example, on national, state and territory regulatory websites.

The QLD Branch support's the Bill's proposal to improve communication between complainants (notifiers) and the National Boards. Notifiers will be able to receive more complete information as to the reason for decisions involving a health practitioner or student and will be able to receive this information in addition to the required 3 months written update (clauses 25, 26, 28 29 and 35). We also approve of the proposal for AHPRA and the National

Boards to develop a common protocol to ensure appropriate information is disclosed to notifiers at appropriate times as stated in the Bill's Explanatory Notes on page 16, as this allows for legislation uniformity across jurisdictions.

The QLD Branch is pleased the Bill addresses the need for co-regulatory jurisdiction powers to be able to review and change conditions imposed in another jurisdiction, particularly as Queensland shares its border with New South Wales, and health practitioners relocate from different states and territories, thus providing a fairer and more efficient process for practitioners (clause 19).

We support the Bill's introduction of clause 33 and 34 which enables suspensions arising from a health panel decision to be reviewed or revoked and for a suspension review date to be set by the panel. This provides practitioners or students affected by a suspension with the assurance that their suspension will be reviewed at an appropriate time and that a mechanism is in place for suspensions by a health panel to be reviewed or revoked.

The QLD Branch wholly supports the introduction of clause 43 which enables National Boards to disclose information to Commonwealth, state or territory entities about a person who provides a health service but is *not* a registered health practitioner, and poses or may pose a risk to public health or the health and safety of patients. At present, only information about registered practitioners is able to be disclosed. The proposed change reflects the QLD Branch's view that public safety is paramount and we would like to highlight the need for timely disclosure of such information.

In closing, the QLD Branch is aware that a second stage of amendments to the National Law related to the Council of Australian Governments Health Council response to the independent review of the National Registration and Accreditation Scheme for the Health Professions is to occur later in 2017, and we look forward to the opportunity to respond to this.

If you require any further information please do not hesitate to contact me via Judith Johnston, Queensland Branch Policy Officer on [REDACTED]

Yours sincerely



A/Prof Brett Emmerson AM
Chair, Queensland Branch RANZCP