

*Dr Amelia Stephens*



**Health, Communities, Disability Services and Domestic and Family Violence Prevention  
Committee Inquiry:**

**Health Practitioner Regulation National Law and Other Legislation Amendment Bill 2017**

**SUBMISSION**

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I provide this submission to the inquiry of the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee (the Committee) into the Health Practitioner Regulation National Law and Other Legislation Amendment Bill 2017 (the Bill), to present as evidence for Committee's consideration a statement of my personal experiences, including the direct impacts upon me, during and after being subjected to investigation by a health authority so empowered under the *Health Practitioner Regulation National Law Act 2009* (the Law).

This submission bears direct relevance to the Bill, because the Bill as tabled will provide additional powers to those health authorities established and/or empowered under the Law and some of those proposed additional powers, in my view, will only serve to increase the potential for health practitioners, subjected to such investigation under the amended Law, to suffer impacts similar to, and most likely even worse than, those I have experienced and am still experiencing, those powers without doubt being and becoming even more so, excessive, unwarranted, unfair and harmful.

***I share my experiences here as there are several aspects to the Bill being tabled that concern me, and it does not appear that adequate personal consultation or consideration has been taken in its formulation.***

The proposed Bill will allow greater powers to the investigators to contact the workplaces and connections of those being investigated. This to me poses as a large threat, and undeserved imposition to many that may be investigated under this Act. Given my experience with the process, it certainly feels to add another bolstering to the already impersonal, general and damaging manner in which this process happens at present, and does not sound supportive of the person being investigated at all. Allowing the disciplinary board as it is to contact work places, employers, work colleagues and contacts of all persons being investigated as a blanket ruling, and without adequate personal connection and correspondence, constitutes a complete invasion of privacy and a possible way of

destabilising the person that is being investigated. Personally, I would have been mortified had my place of work been notified of the complaint brought against me that was in the end dismissed. I did notify my workplace, but was able to do so in manner and in timing that was in keeping with my sensitivity around the process. Taking this freedom away from people across the board, is only a way to produce more anxiety and psychological harm around the process. The proposed changes in this Bill I to me, feels like even further depersonalising of the investigation process and allows for further potential psychological damage to those being investigated. Informing all places of work about an investigation, on behalf of the person being investigated should be made on a case by case basis, and not allowed from the outset as a generalisation. There are specific circumstances where this may be appropriate (i.e. where the person being investigated lacks decision making capacity), but this is certainly not the case in all complaints.

**Notifying work places will not always be in the interest of public safety, and *very importantly* not in the interest of the health and psychological safety of the practitioner being investigated.**

I also object to the stance of the Bill whereby it stipulates that practitioners must notify details of any prohibition order prior to providing health services. Not only is this a logistical nightmare for the doctors involved, and very potentially stigmatising, but not all prohibition orders are applicable to the patients or services being rendered. I would urge this aspect of the bill to be seriously reconsidered as it does not appear practical, or that personal & individual consideration has been factored adequately into its creation.

**Below, I outline my experience and feelings in the process of being investigated by AHPRA, to give further personal perspective that should be considered when revising this legislation.**

#### **PERSONAL STATEMENT**

**By what authority empowered under the Law was I investigated?**

AHPRA

**Was I investigated as a consequence of a notification (complaint) against me?**

Yes

**Do I feel the notification against me was vexatious, false or otherwise being without sound basis?**

Yes

**How did I feel while under investigation?**

I felt afraid, alone and small. I felt like I had little to no power to the complaint brought against me.

### **What were the other impacts to me personally during the investigation?**

I was concerned about my working environment, what my employers thought about me or would think about me with this complaint being submitted, and concerned that the vexatious complainant would contact my work places and create problems for me there. I was also worried about the judgment that may come from my peers with this complaint, and how I would be accepted or not pending the outcome, or even with the fact that a complaint had been brought against me. The complaint occurred early in my career as a junior training doctor and so I felt quite vulnerable to the complaint and the process surrounding it, not really knowing where I could go to for support within my profession as I was afraid people would judge me, and I would lose connection with them. Connections at this point in my life and career were building, and this process left me feeling isolated in many ways. This complaint and the content of it still does concern me at times, as the complainant is still able to speak and/or write publicly about the content of the complaint, though it was dismissed by AHPRA's representatives. No fair disciplinary action has been taken against the complainant in this regard, and thus leaves an opening for further abuse against me, the health complaints process and any other health practitioner that the complainant chooses to target. Having appropriate disciplinary action where the complainant is concerned in this instance would actually be very much in the interest of 'public safety', as I am a member of the public and care for many that are also. If my care diminishes due to anxiety or ill mental health, so too does their care. This should be equally considered.

### **What were the impacts on my family, friends and close colleagues that I observed and/or felt personally during and as a consequence of the investigation?**

Some people in my close circles encouraged me to 'bunker down' effectively in order to not be a target to such complaints in future. I could tell that they were concerned for me, and so encouraged me to not stand out. As someone who knows the importance of having a public and community presence as a health practitioner, this was simply not going to be an option for me, but exposed what this sort of complaint can do. Living in fear of the next complaint stops people from living fully who they are, and the people around me though meaning well, actually were doing me a disservice in encouraging me to 'dull down' or not be in the public view. The complaints process as it currently stands, allows this for many health practitioners. Without advocating for the health profession and people that are being investigated, or at least having a system is set up to support them first, it encourages them to go into hiding and this is never beneficial for anyone's health.

### **How did I feel after the investigation?**

I felt relieved when I received the complaint dismissal letter, though not entirely successful or like there was any kind of justice that occurred. I felt like I'd jumped a hurdle, but had not actually been acknowledged as a person in any way through the process.

### **Do I feel I was fairly treated by being subjected to investigation as I was?**

No. This answer all comes back as to what is defined as fair or just. If the process that I was subjected to was fair, I would have been contacted personally by someone as part of the investigation committee in order to get to know me as a person, and find out about who I

am, the work I do and the context for the complaint. The same could be said for the complainant. Within this, if true discernment was able to be used then much more would be gleaned as to who is 'at fault', and a possible resolution. Health complaints commonly happen when there is miscommunication, poor understanding or negative reaction. Understanding both parties from a point of equality is the key here, and this actually allows the situation to be dealt with in an appropriate manner. The current process as it stands does not allow for this, as it is quite impersonal.

**Did I / do I feel those in authority who investigated and adjudicated my case did so fairly, without bias and prejudice; and were competent, with the knowledge, experience, training and understanding required to properly perform their investigation / adjudication?**

I feel like the team that adjudicated and assessed my case did so to the best of their ability, withstanding the restrictions placed upon them within the process they had to follow. Further transparency in who is part of these panels would be useful for those being investigated, and the community at large.

## **RECOMMENDATIONS**

Based on my personal experiences as outlined above in this submission, and my understanding of the similar experiences of other practitioners, I recommend that:

1. The committee recognizes the evidence submitted by myself and other practitioners to the committee during this inquiry and validates all expressions in that evidence from practitioners of feeling unfairly treated, harmed and traumatised, their experiences in having their careers irrevocably impacted, by the harsh and overbearing powers and conduct of authorities permissible under the current Law.
2. The committee, proceeding from recommendation 1 above, accepts that the Law as implemented is producing harmful outcomes that are either not intended by the original policy intentions, or if intended by those policy intentions, are an indication that the **policy intentions were/are disturbingly wrong**, and either way accepts responsibility on behalf of all participating legislatures take immediate and assertive actions to initiate the required far reaching reform so clearly needed.
3. The committee, with regard to the Bill before it, in examining the Bill scrutinises all provisions of the Bill to identify all clauses that may impose upon, or permit, further unfairness, harm and detriment to practitioners in addition to that which is currently permitted and occurring under the existing Law, and recommends either that the Bill not be passed in its entirety, or the removal of those clauses from the Bill.
4. The committee, as an instrument of the Parliament of Queensland, the host jurisdiction for the application of the National Law in Australia, recognizes its key responsibility, and that of the Queensland Parliament, to initiate appropriate measures to correct the significant and disturbing deficiencies of the Law and the resulting harm and detriment to practitioners as presented in the evidence before this inquiry and outlined in this submission.

5. The committee, in recognizing its responsibilities and those of the Queensland Parliament, as stated in recommendation no. 4 above, recommends in its report to the House on this Bill that Queensland acts assertively and urgently to call for a royal commission, as a matter of priority, to review the Law and the operations of all health authorities that are established by and empowered under the Law in all participating jurisdictions of Australia.
6. The committee, as paramount to the Bill proceeding, recommends amendments to the Bill to enact that the rights and interests of practitioners are seen as equal to those of their patients and the general public. Practitioners have equal rights to be protected from abuse, a right to freedom of association and should not be investigated on the basis of vexatious, malicious or otherwise unsubstantiated complaints.

In making my submission I note that I am willing for my submission to be made public under parliamentary privilege.



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