

11 July 2017

Committee Secretary  
Health, Communities, Disability Services, and Domestic and Violence Prevention  
Committee  
Parliament House  
George Street Brisbane Qld 4000

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

Dear Committee Secretary

**Re: Health Practitioner Regulation National Law**

Together thanks the Health, Communities, Disability Services, and Domestic and Violence Prevention Committee for the opportunity to make submissions regarding the *Health Practitioner Regulation National Law and Other Legislation Amendment Bill 2017*.

Together Queensland, Industrial Union of Employees (**Together**) represents members employed as Health Practitioners and Professional Officers by the Queensland Government as well as those employed as registered health practitioners in a range of disciplines in the private health sector.

Together notes and supports the submissions and recommendations made by the Queensland Nurses and Midwives Union.

We provide the following submissions in relation to specific elements of the Bill below.

We again thank the Committee for the opportunity to make submissions. Should the committee seek any further information or clarification please contact me on [REDACTED] [REDACTED] [REDACTED] [REDACTED]  
[REDACTED]

Yours sincerely,



Daniel Goldman  
Acting Assistant Secretary

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

Health Practitioner Regulation National  
Law and Other Legislation Amendment  
Bill 2017

Submissions

by

Together Queensland

Industrial Union of Employees

## **Proposed amendments to the National Law**

### **Clause 5 Replacement of section 31 enabling the Ministerial Council to change the structure of National Boards by regulation.**

This proposed amendment is of concern to Together and we do not support it.

We submit that the structure of the National Boards is of sufficient significance that it should require legislative amendments and the rigorous consultation processes that accompany such change.

### **Clause 22 Amendment of section 151 (When National Board may decide to take no further action)**

Together supports the amendment to the National Law to provide for the National Board to take no action in a complaint where “the health practitioner to whom the notification relates has taken appropriate steps to remedy the matter the subject of the notification and the Board reasonably believes no further action is required in relation to the notification”.

Further we note and support the recommendation of the QNMU that AHPRA be given the power to take no further action on a clearly frivolous or vexatious complaint.

### **Clause 24 Amendment of section 156 (Power to take immediate action)**

Together has concerns about the proposed amendment to section 156 and does not support this amendment.

The existing provisions provide for the National Board to take immediate action where there is a reasonable belief that the practitioner’s conduct, performance or health poses a serious risk to persons and it is necessary to take immediate action to protect public health or safety. We submit that this provision is adequate for the National Board to take action where required and have not been provided with adequate justification of a requirement for a broader power.

Further the insertion of a ‘public interest’ test that attempts to apply community expectations in decision making relating to the risk posed by a practitioner, appears to add a significant subjective component to the test.

**Clause 29 Replacement of section 180 (Notice to be given to health practitioner or student and notifier)**

The current provision provides for limited information to be provided to a notifier in relation to a decision made. We have significant concerns about the proposed replacement of the existing section 180 with a clause providing for the full reasons for a decision provided to the practitioner to be provided to the notifier. We submit that the reasons for a decision may contain personal and private information of the practitioner that are relevant to the decision but not appropriate or necessary to be provided to the notifier. We submit that this significantly impinges on the privacy of the practitioner.

It is acknowledged by the Office of Information Commissioner in the context of Queensland Government agencies' management of complaints that complaint investigation processes and natural justice principles do not authorise the provision of such information to the complainant. We believe that the same principles apply here:

*The findings of the investigation of the complaint and any consequent actions or recommendations made in relation to the individual who is the subject of the complaint will constitute the personal information of that individual. Natural justice would not authorise the agency's provision of this personal information to a third party such as the complainant (if their interests were not the subject of the complaint) or witnesses<sup>1</sup>.*

We do not support this proposed amendment and the other amendments relating to the provision of reasons for decisions to the notifier. We submit that the existing provisions remain or that a brief summary of the reasons for the decision be provided that complies with relevant privacy principles and protects the privacy of the practitioner.

**Clause 32 Amendment of section 184 (Notice to be given to registered practitioner or student)**

Together has concerns about the clarity of this provision and the operation of the requirement for an undertaking from the practitioner to attend a hearing. Together notes and supports the submissions and recommendations of the QNMU in relation to this provision.

<sup>1</sup> Office of the Information Commissioner, Queensland. GUIDELINE Information Privacy Act 2009: "Privacy in complaint management: disclosure and natural justice". Published 3 July 2014, Accessed 11 July 2017. [https://www.oic.qld.gov.au/\\_data/assets/pdf\\_file/0004/25528/Privacy-in-complaint-management-disclosure-and-natural-justice.pdf](https://www.oic.qld.gov.au/_data/assets/pdf_file/0004/25528/Privacy-in-complaint-management-disclosure-and-natural-justice.pdf)

**Clause 34 Insertion of new sections 191A and 191B**

Proposed subsections 191B(4) and (5) provide that a panel may decide a later date for the reconsideration of a suspension of a registrants registration.

Together submits that this decision should give rise to an appeal right and notes and supports the QNMU submissions and recommendations in this regard.

**Clause 35 Amendment of section 192 (Notice to be given about panel's decision)**

Together does not support this amendment please see discussion under Clause 29.

**Clause 36 Amendment of section 196 (Decision by responsible tribunal about registered health practitioner).**

Clause 36 proposes to allow a relevant tribunal to prohibit a person from providing *any health service* rather than a *specified health service*. This is of concern to Together based on the breadth of the definition of a health service in the Act which would provide for a potential for uncertainty of application.

Together does not support this amendment.

**Clause 38 Amendment of section 199 (Appellable decisions)**

Together notes and supports the QNMU recommendation of an additional provisions to enable an appeal of a decision to extend the reconsideration date.

**Section 225 of the National Law - Information to be recorded in National Register**

Together notes and supports the comments and recommendations of the QNMU in relation to information that can be requested to be withheld in cases of family violence.

## **Proposed amendments to the HO Act**

### **Clause 65 Amendment of section 58 (Power to take immediate registration action)**

Together's concerns in relation to this provision mirror our concerns in relation to section 156 of the National Law. Please see our comments above.

Together does not support this amendment.

### **Clause 66 Insertion of new section 58A and 58B**

Together notes and supports the submissions and recommendations of the QNMU in relation to this clause.

### **Clause 69 Amendment of section 68 (Power to issue interim prohibition orders)**

Together's concerns in relation to this provision mirror our concerns in relation to section 156 of the National Law. Please see our comments above.

Together does not support this amendment.

### **Clause 70 Insertion of new sections 68A and 68B**

Together notes and supports the submissions and recommendations of the QNMU in relation to this clause.

### **Clause 76 Amendment of section 107 (Decision about registered health practitioner other than student)**

Together's concerns in relation to this provision mirror our concerns in relation to section 196 of the National Law. Please see our comments above.

Together does not support this amendment.