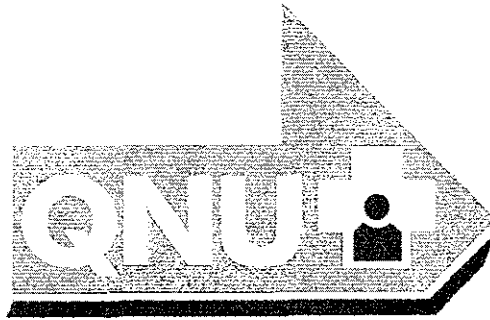


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The union for nurses and midwives

Queensland Nurses' Union

GPO Box 1289, Brisbane Q 4001

Health and Hospitals Network and Other Legislation Amendment Bill 2012

Submission to
the Health and Community Services Committee
Queensland Parliament

May, 2012

Contact: Dr Liz Todhunter
Research and Policy Officer
38401473
Email ltodhunter@qnu.org.au

 **Nurses.**
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Quality care for older Australians

The Queensland Nurses' Union (QNU) thanks the Health and Community Services Committee for providing the opportunity to comment on the *Health and Hospitals Network and Other Legislation Amendment Bill 2012* (the Bill).

As the principal health union operating in Queensland and the largest representative body of women in this state, the QNU is of course vitally interested in any proposed changes to this Act. We make the following comments recognising that this is not an exhaustive list given the very limited consultation period.

Nomenclature

The QNU notes the Bill contains amendments to the current *Health & Hospital Network Act 2011* that renames the Act to the *Hospital and Health Boards Act 2011*. The Bill also renames Local Health and Hospitals Networks to become known as Hospital and Health Services.

The previously described Governing Councils will now be called Hospital and Health Boards.

Hospital and Health Service Responsibilities

As we read it, the Bill proposes two additional areas of responsibility for Hospital and Health Services viz:

- 1 the ability to buy and sell land and buildings, and;
- 2 the ability at some point in the future, for government to determine individually or collectively that health and hospital services are be able to employ all staff.

In the limited time available for consultation the QNU provides no comment on the issue of buying and selling land and buildings and on a number of additional changes contained in the Bill that may be beneficial, such as the ability to appoint ancillary boards

The principle concern arising out of the Bill for the QNU is the proposal to allow, by regulation, a Hospital and Health Service to be prescribed as the employer of all staff.

The QNU sees considerable inefficiencies and unnecessary barriers arising from the creation of services as separate employers. Queensland Health is a large and complex organisation with a considerable number of Human Resources and Industrial Relations Policies that operate in conjunction with current industrial instruments (awards and agreements). While the legislation envisages industrial relations remaining a central function, each industrial instrument and Human Resource Policy will be potentially subject to individual interpretation on a service-by-service basis if Hospital and Health Services become a separate employer. Inconsistencies will arise from different interpretations and individual locally determined employment policy. Therefore the ability of a service to attract and retain staff will be influenced by how competitive the individual employers choose to be. This could be very problematic for nursing and midwifery if there are unstable or inconsistent employment arrangements at the same time as the accepted workforce projections indicate a significant shortfall of nurses and midwives within the next few years.

The creation of a service as a separate employer will produce a competitive environment in which one service may seek to gain a staffing advantage at the cost of another. Consequently, an individual health service may obtain a reputation as being either a 'good' or a 'poor' employer depending on its ability to provide employees with the same level of access to entitlements as other health services. The negative consequences of such a situation may require the government to

reverse a decision to allow a service to be a standalone employer. Again, this creates significant practical problems that will impact on the attraction and retention of employees.

In 1991, Queensland Health moved from Hospital Boards to 13 Regional Health Authorities as separate employers. The problems that occurred when each Regional Health Authority was its own employer led to the creation of 37 Health Service Districts in 1996 with Queensland Health as the single employer. Queensland Health has remained the single employer for all health employees since that time.

A significant reason for maintaining Queensland Health as the single employer has been the geographic diversity of Queensland. It is not difficult to envisage a situation where the better resourced Hospital and Health Services become employers in their own right, while rural and remote Hospital and Health Services remain under the central employer. This reinforces the likely division between more attractive east coast and south-east corner services compared to those in rural and remote settings and exacerbates the looming difficulties of attracting and retaining the nursing and midwifery workforce.

Mater Public

The QNU notes that the Bill includes amendments to funding arrangements consistent with the National Health Reform Agreement. The Bill proposes changes that describe how the funding arrangements and associated service agreements will operate and the specific powers of the Minister in this regard, however it would appear none of the Minister's proposed powers would include the Mater Public. For example, the proposed amendments allow the Minister to give directions to Hospital and Health Services, but the Minister does not have similar powers with respect to the Mater Public Hospital. The Bill also requires a Hospital and Health Service to publish service agreements, but again this does not extend to the Mater Public.

The QNU believes that the powers with respect to service provision and funding arrangements that will bind Hospital and Health Services should also bind the Mater Public given its public hospital status.

Executive Committees

The Bill proposes that a Board must establish an Executive Committee. In addition, at least one Board member on the Executive Committee must be a clinician. However, there is no definition of a 'clinician' within the legislation. As this term has various meanings, one of which is limited to medical staff only, the QNU believes that the legislation should provide an appropriate definition that includes all clinical staff.

Appointment of Advisors to Boards.

The QNU believes it is not clear whether the Advisor is to be a Board member or an employee of a service. The Bill suggests at Section 44D that the Advisor is not a member of the Board. If the Advisor does not have the powers of the Board this may limit the Advisor performing their role.

Chief Executive subject to direction of the Minister

At proposed Section 44F, the Bill provides that the Chief Executive will be subject to the directions of the Minister in managing the department, however, this does not extend to making decisions about "particular individuals".

The term "particular individuals" is unclear. This could refer to individual employees, individual patients, or individual members of the public. The QNU believes this reference in section 44F should be clarified.

Changes to *Industrial Relations Act 1999*

The QNU recognises that the retention of Queensland Health as the single employer would obviously not require any changes to the *Industrial Relations Act 1999*.

The QNU opposes a proposed change to the 'dismissal provisions' at Section 77 of the *Industrial Relations Act 1999* that would allow the Queensland Industrial Relations Commission to consider an employee's conduct, capacity or performance in a dismissal application by one Hospital and Health service employer to be taken into account by another Hospital and Health Service employer where the employee may work.

The QNU believes that such a provision is in itself harsh, unjust and unreasonable. For example, it is possible that a nurse working part time at the Princess Alexandra Hospital also has a separate engagement as a part time employee at the Royal Brisbane Hospital. If it were prescribed that both hospitals were part of Hospital and Health Services that are separate employers, then the employee would have two separate contracts of employment. Dismissal from both employers (facilities) for a matter that relates to only one employer is blatantly unjust and a double punishment on the employee.

The QNU submits that The Bill should in fact provide for the reverse. In a dismissal application the employer (Hospital and Health Service) cannot rely on its unique advantage as an entity under the umbrella of Queensland Health to access information that any other individual employer would not normally be able to access regarding a separate employment engagement of any employee.

The QNU is available to discuss any aspect of this submission with the Committee.