www.amaq.com.au

88 L'Estrange Terrace
Kelvin Grove 4059

PO Box 123
Red Hill 4059

Ph: (07) 3872 2222
Fax: (07) 3856 4727

amaq@amaq.com.au

ACN 009 660 280
ABN 17 009 660 280

Mr Peter Dowling MP
Chair, Health and Community Services Committee
Queensland Parliament
Parliament House
Brisbane QLD 4000

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29 May 2012

AMA Queensland's submission to the Health and Hospitals Network and Other Legislation Amendment Bill 2012

Dear Mr Dowling,

AMA Queensland welcomes the decision by the Health and Community Services Committee to consult with the medical profession regarding the amendments to the Health and Hospitals Network Act 2011 (the Act) in the Bill Health and Hospitals Network and Other Legislation Amendment Bill 2012 (the Bill). AMA Queensland notes the limited timeframe offered to provide our submission, which has not allowed for wide consultation with our members, and on this basis offers a brief response. As such, we view this as the first step in a broad collaboration on the reforms.

Following consultation on this issue, AMA Queensland, provides the following comments.

Clause 10 Amendment of s 20 (Powers of networks)

(2) Section 20(4)—

omit, insert—

'(4) A Service prescribed by regulation may also employ other health service employees under this Act.

Note— section 80 states that employees employed in the department and working for a Service immediately before the prescribed day for the Service become employees of the Service on the same terms, conditions and entitlements.

'(5) A regulation under subsection (4) may also restrict, limit or impose conditions on the power to employ health service employees.'.

AMA Queensland has no objection to Hospital and Health Services employing staff other than health service executives. However, AMA Queensland and our union partners, ASMOFQ, have concerns that as the administration of the Medial Officers Certified Agreement (MOCA) and other enterprise agreements is diversified, there will be an increased risk that the terms of those agreements will not be properly applied. AMA Queensland advocates that, to reduce this risk, there is a need for greater oversight of all enterprise agreements.

AMA Queensland proposes that the regulations establish a streamlined grievance procedure whereby grievances can easily be brought to the attention of the MOCA Consultative Group (or equivalent) if an employee believes that the terms of their enterprise agreement are not being honoured by their Hospital and Health Service employer. The MOCA Consultative Group has the power to assess the situation and intervene if necessary.

Clause 10 Amendment of s 20 (Powers of networks)

(1) Section 20(2)—

omit, insert—

'(2) A Service may not own assets prescribed by regulation.'.

Clause 11 Insertion of new s 20A

After section 20—

insert—

'20A Limitation on Service's dealing with land or buildings

'(1) A Service must not buy or sell land or buildings without the prior written approval of the Minister and the Treasurer.

'(2) A Service must not, without the prior written approval of the Minister and the Treasurer, grant or take a lease of land or buildings unless the lease is a type prescribed by regulation.'.

AMA Queensland is concerned that the transfer of title of land and plant to Health and Hospital Services will be rushed and that more time is needed for planning.

In addition, the proposed legislative safeguards outlined in Clause 11 may allow Hospital and Health Services to deal with land and plant in ways which would appear to run contra to the spirit of the legislation. For example, it appears to remain open to Hospital and Health Services to mortgage property. AMA Queensland proposes that the amendment be altered to more adequately reflect the intentions of parliament. Appendix A contains the equivalent legislation from NSW for comparison.[1]

Clause 12 Amendment of s 23 (Membership of governing councils)

Section 23—

insert—

'(3) One or more of the members of a board must be clinicians.'.

While AMA Queensland welcomes commitment to the inclusion of clinical skill and experience on Hospitals and Health Service Boards, the draft legislation is weak, and will be ineffective in achieving this aim. AMA Queensland holds this view for two reasons: first, the Act does not specify the clinical qualifications necessary to be considered a 'clinician'; and second, there is no requirement the Board include a medical practitioner.

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[1] Powers in relation to property, s 34 *Health Services Act 1997* (NSW)

Definition of Clinician

As the act is currently written, there is no definition of 'clinician'. This is a major oversight considering that s23 will be amended to insert a subsection requiring one or more members of the board to be a 'clinician'. [2] The term 'clinician' must be clearly defined to ensure this Board member is a person with in-depth local and clinical skills and experience.

A clinician appointed to the Board of a Hospital and Health Service must be more than merely a 'health professional'.[3] A clinician should be:

- A health professional of a type employed by the Hospital and Health Service. For example, if there are no chiropractors employed by the Hospital and Health Service, then a chiropractor should not be a clinician for the purposes of s23 of the Act.
- A health professional who is engaged in clinical practice within the Hospital and Health Service Area.

This definition of 'clinician' will include medical practitioners. A definition which includes these provisions should be included in dictionary in Schedule 3 of the Act.

As a member of the Executive Committee, it is vital that the 'clinician' Board member have both local knowledge and up-to-date clinical experience relevant to the services provided by the Health and Hospital Service. Without this knowledge the 'clinician' member will not be able to adequately comprehend the challenges facing the Hospital and Health Service or advise the Chair, Board and Executive Committee accordingly.

Medical Practitioner on each Board

Medical practitioners are the clinicians most qualified to provide the local and clinical knowledge and experience which the Board will need to effectively administer the Hospital and Health Service. Medical practitioners are the clinical leaders within hospitals and have a very high level of clinical knowledge, therefore engaging them is vital to the success of health reform.[4] It is therefore essential that the Board have access to the expertise and leadership of a medical practitioner as a member of the Board and Executive Committee.

The medical practitioner should be a local, practicing doctor. This will ensure that the medical practitioner will have both local knowledge and up-to-date clinical experience. With this knowledge and experience, the 'clinician' member will be able to comprehend the challenges facing the Hospital and Health Service and advise the Board accordingly

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[2] Under the current act, the only reference to a clinician is in reference to the 'clinician engagement strategies' Clinician engagement strategies must 'promote consultation with health professionals working in the network', (s40(1)(a) *Health and Hospitals Network Act 2011* (Qld)).

[3] A 'health professional' means a person registered under the Health Practitioner Regulation National Law, *Dental Technicians Registration Act 2001(Qld)* or the *Speech Pathologists Registration Act 2001*. This group includes Chinese Medicine practitioners, osteopaths and chiropractors, Dictionary, Schedule 3, *Health and Hospitals Network Act 2011* (Qld)

[4] Dickinson, H and Ham, C (2008) *Engaging Doctors in Leadership: Review of the Literature*. Academy of Medical Royal Colleges, University of Birmingham, NHS Institute for Innovation and Improvement, p2.

The medical practitioner Board member should also sit on the Executive Committee. The clinical knowledge of a medical practitioner will be essential to this body which will deal with clinical standards and engagement with clinicians, Medicare Locals and consumers.

AMA Queensland advocates the following sections be inserted into the Bill:

Section 23—

insert—

'(4) One or more of the members of a board must be a medical practitioner.'.

insert—

Section 32C Membership of executive committee

'An executive committee consists of the following—

(a) the chair or deputy chair of the board who is to be chair of the committee;

(b) at least 2 other board members, decided by the board, at least one of whom is a clinician and at least one of whom is a medical practitioner.

In New South Wales there is a position on each Local Health District Board which is reserved for a medical practitioner. A shortlist of medical practitioners is nominated by the local Medical Staff Council. The board member is then chosen by the Health Minister. This policy ensures that medical practitioner board members have both an intimate knowledge of the local clinical climate and the trust and confidence of their peers. AMA Queensland commends this as an effective and practical model to the Health and Disabilities Committee.

AMA Queensland believes that medical practitioner involvement in decision making should be a high priority and can significantly improve both the running of hospitals and clinical outcomes for patients.

AMA Queensland looks forward to taking part in the establishment of the Hospital and Health Services and providing input to support medical practitioner leadership in the improvement of hospital services and clinical outcomes for patients. Please contact me if you would like to discuss the issues raised by AMA Queensland in this submission.

Yours sincerely.

Dr Richard Kidd
President
AMA Queensland

Appendix A

Health Services Act 1997 (NSW)

34 Powers in relation to property

(1) A local health district may do all or any of the following:

(a) acquire land (including an interest in land), for the purpose of the exercise of its functions, by agreement or by compulsory process in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991* and acquire any other property (whether or not the land or other property is required for the purposes of any public hospital, health institution, health service or health support service under the control of the local health district),

(b) sell, lease, mortgage or otherwise dispose of land or any other property,

(c) dedicate land as a public road under the *Roads Act 1993*.

(2) A local health district must not, without the approval of the Minister, do any of the following:

(a) acquire land by any means,

(b) dispose of land by sale, lease, mortgage or otherwise,

(c) dedicate land as a public road.

(3) A local health district may request the Minister to give approval to (and the Minister may approve) a disposition or dedication of land or a use of land, being a disposition, dedication or use:

(a) that is contrary to a provision of, or a trust arising under, the Crown grant of that land, or

(b) that, if this section had not been enacted, may make the land liable to be forfeited to the Crown.

(4) If the Minister has given an approval under this section to a disposition or dedication of land, or to a use of land, neither the disposition or dedication of the land (or its subsequent use) nor the use of the land:

(a) is to be regarded as a breach of any provision of, or any trust arising under, the Crown grant of that land, or

(b) is to make the land liable to be forfeited to the Crown.