



Hon Lawrence Springborg MP
Minister for Health

- 9 JUL 2013

MI191013

Level 19
147-163 Charlotte Street Brisbane 4000
GPO Box 48 Brisbane
Queensland 4001 Australia
Telephone +61 7 3234 1191
Facsimile +61 7 3229 4731
Email health@ministerial.qld.gov.au

Mr Trevor Ruthenberg MP
Chair
Health and Community Services Committee
Parliament House
George Street
BRISBANE QLD 4000

RECEIVED

09 JUL 2013

HEALTH AND COMMUNITY
SERVICES COMMITTEE

Dear Mr Ruthenberg

Thank you for your letter dated 3 July 2013 in relation to the Health Ombudsman Bill 2013.

In your correspondence you sought advice on the immediate action powers in the Bill, in particular, the potential for immediate action to be taken in the absence of a show cause process.

As outlined in the Explanatory Notes for the Bill, the normal expectation would be for a show cause process, of at least seven days, inviting a submission from the practitioner concerned. However, in exceptional cases this process can be waived. This may occur, for example, if the Health Ombudsman received advice from a registration authority that a practitioner's registration had been fraudulently obtained and it was necessary to take the action immediately to protect the public. In these exceptional cases, no purpose would be served in having a show cause process and any delays may result in harm to the public.

Recent and current legislative precedence recognise the need to take immediate action if required. I am advised that under the *Health Practitioners (Professional Standards) Act 1999*, which was in force until the recent enactment of the *Health Practitioner Regulation National Law*, a show cause process was not required. Similarly, in New South Wales (also a co-regulatory jurisdiction), the *Health Practitioner Regulation National Law (NSW)* does not require a show cause process before taking action. Under the *Health Practitioner Regulation National Law*, a show cause process is required, however, as indicated in your correspondence, there is no minimum time limit for this process, and the show cause process may be done orally.

Some stakeholders have expressed concern with the potential for the Health Ombudsman to take immediate action in the absence of a show cause process. However, stakeholders may be equally concerned about how meaningful a show cause process would be if it was done in a matter of hours and done orally rather than in writing.

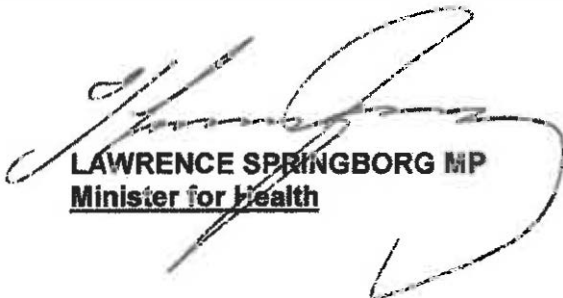
The taking of immediate action in relation to a registered health practitioner is already published. There is a requirement under the *Health Practitioner Regulation National Law* to maintain a publicly available register of health practitioners, including conditions and suspensions. The community has a right to know if a registrant's registration has been affected in this way. In the interests of transparency and certainty, the Bill states that the Health Ombudsman may also publish information about QCAT decisions and immediate action. Placing relevant information on the Health Ombudsman's website for QCAT decisions (which are also publicly available) and immediate action will make this information readily available to the Queensland community.

The Bill provides that immediate action in relation to registered health practitioners is a discretionary matter for the Health Ombudsman, as the statutory obligation to maintain a register exists under the National Law. There is no equivalent register for actions taken against health practitioners who are not registered. As such, the Bill provides that the Health Ombudsman must publish information about the action taken against health practitioners who are not registered. This is to ensure that the Queensland community is informed of these matters.

It is important that any code of conduct or other document prescribed under clause 288 of the Bill is publicly available. The documents referred to in the Explanatory Notes, such as the documents published by the Australian Council on Safety and Quality in Health Care, are publicly available. As a matter of drafting practice, the Office of Parliamentary Counsel would check that such documents are publicly available before making the relevant regulation. I am happy to table the relevant documents in the Parliament when the regulations are tabled.

Thank you for the opportunity to respond to these issues.

Yours sincerely



LAWRENCE SPRINGBORG MP
Minister for Health