



Health and Community Services Committee
Parliament House
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BRISBANE QLD 4000

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20 June 2013

Dear Health and Community Services Committee,

Health Ombudsman Bill 2013

Optometrists Association Australia (OAA) welcomes the opportunity to provide feedback on the Health Ombudsman Bill 2013 currently before the Queensland Parliament. OAA is the peak professional body for Australian optometrists. Optometry is a registered health profession, and the Association represents close to 93% of optometrists registered with the Optometry Board of Australia, including (in conjunction with our Queensland state division) those practising in Queensland.

The Association recognises that the intent of the Bill is to strengthen the health complaints management system in Queensland. The Association supports the main objects of the Bill (to protect the health and safety of the public; to promote professional, safe and competent practice by health practitioners; to promote high standards of service delivery by health service organisations; and, to maintain public confidence in the management of complaints and other matters relating to the provision of health services). We believe that it is important to have in place an appropriate and well considered health care complaints system to ensure that these objects are met.

In general and where it is working effectively, we believe that a nationally consistent complaints management system is preferable as it supports a greater understanding and limits confusion amongst both practitioners and consumers regarding how complaints should be made and how they will be addressed.

This is important, as a clear understanding amongst health practitioners of when and how complaints should be made, the steps and processes of how complaints are addressed, as well as the rights and responsibilities of the complainant and the practitioner, is likely to support the more timely, appropriate and consistent, registering of a complaint. We believe it can also support a more fluid process that is less confusing for all stakeholders to understand, as opposed, for instance, to the proposed Queensland system where a complaint may be referred to other entities to be dealt with. A national complaints system also recognises that both health practitioners and patients move between states and territories.

Given the seeming preference for a jurisdiction-specific complaints and notification system in Queensland, the Association provides the following comments.

We commend the Government on the inclusion of clearly articulated timeframes, which provide all stakeholders with clear time markers for some elements of the complaints management process, though note that this could be strengthened by specifying timeframes around the QCAT review processes.

We further note that the Bill modifies the requirement for health practitioners to mandatorily notify impairments of other health practitioners. The Bill provides exceptions, within tight limits, to the mandatory notification requirements of the National Law for health practitioners treating other health



practitioners for an impairment that will not place the public at substantial risk of harm. The Association strongly supports this exception as removing a barrier to health practitioners seeking health care for impairments that could affect their practise. We supported a similar change made by the Western Australian government in 2010.

The Association, however, has a number of serious concerns regarding the Bill and the alterations to the Queensland complaints management system that it would introduce if passed by the Queensland parliament. We note that under the Bill, the Health Ombudsman is accorded powers to suspend, restrict or remove a health practitioner's registration. We are concerned that the Bill concentrates this decision making in the hands of one person, who is unlikely to have a robust understanding of all health disciplines. Whilst the option for the Health Ombudsman to seek clinical advice before undertaking action is provided for (section 29), there is no requirement for consultation, or decision-making in concert with, the practitioner's professional peers. Further, under the Bill the Health Ombudsman is empowered to take immediate action to restrict or remove a practitioner's registration based on their reasonable belief alone. This include, unlike the current NRAS legislation, in instances where the health practitioner may not yet have been provided with opportunity to respond to the proposed action.

The Association believes that this is a highly fallible system, which does not necessarily support the most informed decision-making and which lacks appropriate checks and balances. This is of high importance as the decision of the Health Ombudsman will affect not only public safety, but also the reputation, career and livelihood of the health practitioner in question, as well as the accessibility of health care services in the practitioner's local catchment. Many of these effects are likely to be felt whether or not the Health Ombudsman's decision is later reversed on review.

Whilst appreciating there may be rare occasions where public safety may (seemingly) justify acting without first undertaking a more consultative and comprehensive consideration, we suggest that the processes for the Health Ombudsman to restrict or remove a practitioner's registration require greater rigour; the need to protect the practitioner from the consequences of action based on mistaken or partial information should be more seriously considered. At a minimum, consideration should be given to requiring consultation with the practitioner's professional peers through a formal structure; for optometry, a relatively small profession, it may be most appropriate to do this via the Optometry Board of Australia.

The Association has further concerns about the right of the Health Ombudsman to publish information regarding immediate actions taken. Enabling publication of information regarding an immediate action without a requirement to at least complete the show cause process, if not any review process that may be pursued, seems blatantly unfair to the health practitioner. It is also unlikely (except perhaps in the rarest of circumstances) to be justified by public good and public safety, given the immediate action is likely to prevent the practitioner from practising. Further, there is no requirement within the Bill to remove this information if the restriction is removed following appeal. This is unfair on the practitioner whose professional reputation would be effectively tarnished regardless of whether a more comprehensive consideration found no grounds for removing or restricting their registration. We recommend that these provisions be amended.

Yours sincerely,



Genevieve Quilty
Chief Executive Officer