

Health Practitioner Regulation National Law and Other Legislation Amendment Bill 2024

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Submission to the Inquiry into the Health Practitioner Regulation National Law and Other Legislation Amendment Bill 2024

The Brisbane Rape & Incest Survivors Support Centre (BRISSC) is a specialist sexual violence support and prevention organisation that provides a variety of support services to survivors aged 15+ who have experienced sexual violence. We welcome the opportunity to contribute to the Inquiry into the Health Practitioner Regulation National Law and Other Legislation Amendment Bill 2024. It is imperative that the safety of survivors of sexual violence is considered when engaging with healthcare professionals. It is critical that legislative frameworks provide robust protections and support mechanisms to ensure survivors can access healthcare without fear of harm, re-traumatisation, or further exploitation.

This submission seeks to highlight the importance of strengthening consistent complaints processes for sexual misconduct across regulatory bodies and increasing protections for survivors of sexual violence when reporting misconduct by healthcare practitioners. Our submission is based on communication with survivors accessing our service who have experienced sexual misconduct and abuse by health care practitioners.

1. Strengthening Accountability of Healthcare Practitioners

The amendment bill presents an opportunity to enhance accountability for healthcare practitioners who have breached ethical and professional standards. It is vital that regulatory mechanisms ensure practitioners who engage in inappropriate or harmful behaviour, including sexual misconduct and sexual offences, are held accountable by national boards.

We support the bill's amendments to increase public transparency about disciplinary action against health practitioners who have been found by a tribunal to have engaged in serious sexual misconduct (including that national boards will be required to permanently publish additional information on the national public registers). However, a significant barrier we have observed in our communication with survivors of sexual violence perpetrated by healthcare professionals is that their initial complaints are often inadequately recognised or investigated by the relevant regulatory body. Additionally, complaint processes often exacerbate the trauma surrounding the sexual offence itself. For example, amplifying the sense of not being believed, invalidation of the impacts of sexual misconduct, reduction in a sense of bodily autonomy, and concern about the safety of other patients and survivors,

These adverse impacts have particularly occurred when survivors have made formal complaints, provided evidence, and participated in investigation processes and then had no response from the relevant body/board and/or no penalty for the practitioner causing harm.

We would like to see clearer and more consistent processes and protocols for reporting misconduct, with an emphasis on trauma-informed responses to ensure survivors feel safe and supported when making a complaint. This would include prioritising timely responses to complaints of sexual misconduct/offences, approaching complainants with compassion, care, and validation around the experience of misconduct and subsequent trauma impacts.

2. Ensuring Trauma-Informed Approaches in Healthcare Settings

For survivors of sexual violence, navigating the healthcare system can be fraught with anxiety and distress, particularly around invasive procedures. Survivors are often re-traumatised by encounters with healthcare providers who lack the appropriate training to deal with their unique needs. At BRISSC, survivors often seek our support to attend medical appointments to ensure their needs are understood and respected, and that they are safe. This significant distrust of medical professionals often results from prior experiences of violation, neglect or abuse by a treating practitioner.

Considering this, the bill should mandate that healthcare professionals, across all levels, undergo comprehensive trauma-informed care training. This would aid in adequately supporting survivors accessing healthcare, as well as improve responses to complaints of sexual offences by health care professionals.

This training should emphasise:

- The impact of sexual trauma on the body and mind, and how this may impede a patient's ability to participate in invasive examinations and procedures.
- Knowing options for additional support and/or alternative interventions where intimate exams and procedures are required.
- The importance of informed consent in all medical procedures, particularly for survivors of sexual violence.
- Effective communication techniques that prioritise the survivor's autonomy and safety. This includes healthcare professionals' awareness of their power over patients when communicating about consent and the need to make additional considerations for vulnerable populations, e.g., ensuring the use of interpreters.
- How to identify signs of distress in patients and respond appropriately.
- How to respond to disclosures of sexual violence in a trauma-informed manner whereby the patient's choice and autonomy are upheld.

We recommend ongoing training and education for healthcare practitioners, including non-clinical and administration staff, to be equipped at supporting survivors of sexual violence accessing healthcare, as well as recognising, responding, and reporting overserved or suspected sexual misconduct by practitioners.

3. Strengthening Screening and Regulatory Oversight

To prevent individuals with a history of inappropriate behaviour or misconduct from entering or remaining in healthcare professions, we recommend a stronger screening process integrating regular checks throughout a practitioner's career. This includes tighter regulatory oversight over disciplinary actions and ensuring transparency in the reporting and handling of complaints.

Furthermore, the regulatory body should have clear and enforceable powers to remove healthcare practitioners from practice when they pose a risk to vulnerable individuals, such as survivors of sexual violence.

We support the bill's intentions to strengthen regulations and transparency. We would like to see this include consideration of safety risks and barriers for survivors when reporting sexual misconduct, during investigations, and following disciplinary action. A substantial factor to consider is breaches to confidential medical files and misuse of information within those files. Within our work at BRISSC, several survivors have shared instances whereby confidential files have been breached in two primary ways:

- Practitioners using their power to access confidential medical records and using such information to perpetrate violence towards others in their private lives e.g. coercive control, threats and intimidation.
- Practitioners who commit sexual offences against their patients already possess the patient's personal information (i.e., phone number, address, etc.) and leverage this to scare survivors into not reporting, retaliate following reporting, and/or enable further offending such as stalking and harassment.

4. Support Systems for Survivors within the Healthcare System

Survivors of sexual violence often face significant barriers to reporting misconduct, including fear of not being believed, lack of knowledge about their rights, and concerns about re-traumatisation. The current procedures for reporting and investigation processes within regulatory bodies further harm survivors, with many survivors sharing with us that the reporting process in and of itself has exacerbated distress and trauma surrounding the misconduct.

It is essential that healthcare systems and bodies provide clear, accessible, and confidential avenues for survivors to report misconduct or concerns and that investigation processes seek to minimise further harm to the complainant. These systems should be supported by independent advocacy services that can guide survivors through the reporting process and ensure their voices are heard. Survivors should also be offered various pathways to justice, such as mediation and restorative justice processes. It is paramount that survivors are included in decision-making around disciplinary actions to acknowledge the person's autonomy, choice, and control that has been ruptured by the sexual offenses.

Sexual violence survivors have the right to access healthcare services that are safe, respectful, and free from harm. The proposed amendments to the Health Practitioner Regulation

National Law provide an important opportunity to strengthen protections for these individuals. By focusing on accountability, trauma-informed care, and rigorous screening.

We strongly urge the Committee to prioritise the safety and well-being of sexual violence survivors as part of this legislative reform.

Please do not hesitate to contact BRISSC if you would like to discuss our submission on 3391 2573, admin@brissc.org.au, or support@brissc.org.au

Sincerely,

The Brisbane Rape and Incest Survivors Support Centre Collective