

## Health and Other Legislation Amendment Bill (No. 2) 2023

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**Submitted by:** Australian College of Nursing  
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The Health and Environment Committee  
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Dear Mr Harper MP

**Re: Health and Other Legislation Amendment Bill (No. 2) 2023**

The Australian College of Nursing (ACN) would like to thank the Health and Environment Committee for the opportunity to comment on the **Health and Other Legislation Amendment Bill (No. 2) 2023 (the Bill)**.

ACN believes the changes incorporated in the Bill will support quality improvement and patient safety in public health facilities and improve the operation of health legislation in Queensland. ACN supports all actions that ensure the health and wellbeing of all community members, particularly the most vulnerable within the community. This Bill supports those members of the community.

***Amendment to Hospital and Health Boards Act 2011***

*Postnatal care ratios*

In an Australian first, the Bill commences with an amendment that will ensure newborn babies are counted as an extra patient, ensuring there is adequate care to support mother and baby in the newborn's first few days, when extra care is required. ACN is aware that this amendment pertains particularly to midwives as minimum midwife-to-patient ratios have not yet been implemented on the wards where midwives work. Although ACN is a member organisation specifically for nurses not midwives, ACN fully supports this amendment and welcomes the change in support of the care of the newborn.

*Sharing of information by a Quality Assurance Committee*

The Bill requires that the Quality Assurance Committee (QAC) must disclose information about a health professional to their chief executive where the QAC reasonably believes the health professional's health, conduct or performance poses a serious risk of harm to a person. This is an important safeguard against preventable harms to patients and healthcare personnel. The QAC has been restricted in what it can disclose or share, effectively placing patients and personnel at risk. ACN supports and welcomes this amendment but urges that with more freedom to disclose reported health conditions or conduct, provision must be made to ensure that any claim regarding any health professional is made with substance and

is not vexatious. ACN acknowledges that the Bill will ensure that any issue of patient safety will be addressed more rapidly than is currently the case but notes that freedom to disclose may lead to clinicians being less willing to participate in review processes which, in turn, will impact the quality and transparency of the review process.

#### *Appropriate action by the chief executive*

The Bill makes clear that the chief executive of Queensland Health may take appropriate action in response to reports from a clinical review or health service investigation conducted in a Hospital and Health Service. This change provides the chief executive with ability to take necessary action after a clinical review and/ or health service investigation by a Hospital and Health Service (HHS). ACN agrees that this change will allow for improved clinical outcomes in line with reviews undertaken by an HHS. ACN views this as an important and sensible change, enabling faster response to identified risks.

#### *Sharing of information from Root Cause Analyses*

The Bill amendment will ensure key findings, recommendations and lessons learnt from root cause analyses of serious clinical incidents can be shared with relevant staff across Queensland Health. This will ensure that any recommendations, findings and lessons learnt can be shared for the benefit of all staff and patients across Queensland Health. This amendment may mean that more information can be openly shared with families, building trust and potentially avoiding litigation. ACN supports this change.

## **Amendment to the *Termination of Pregnancy Act 2018* and *Criminal Code***

### *Early medical terminations of pregnancy*

This amendment will allow additional health practitioners to perform early medical terminations of pregnancy through the use of termination drugs. ACN supported the proposal to enable nurse practitioners, endorsed midwives and Aboriginal health workers to administer drugs designed for early medical terminations of pregnancy, such as the MS-2 step abortion drug.<sup>1</sup> This amendment will be the final step in this process, allowing MS-2 Step to be prescribed by any health practitioner with appropriate qualifications and training.

The Bill will give effect to the Therapeutic Goods Administration's prescribing changes for MS-2 Step.<sup>2</sup> In turn, this will improve access to safe termination-of-pregnancy care across

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<sup>1</sup> Queensland Government (2023) Increasing access to medical termination of pregnancy: Proposed amendments to the *Termination of Pregnancy Act 2018* and *Criminal Code Act 1899*

<sup>2</sup> Therapeutic Goods Administration (2023) [Amendments to restrictions for prescribing of MS-2 Step \(Mifepristone and Misoprostol\)](#)

Queensland by increasing access to early medical termination of pregnancy and increase choice for pregnant persons, particularly those in remote and rural areas of Queensland. ACN wholeheartedly supports this amendment and welcomes the change.

#### *Adopting inclusive language*

The Bill amendment will provide for more inclusive language by replacing references to ‘woman’ with ‘person’ in termination of pregnancy provisions. This was a proposal included in the Consultation paper, **Increasing access to medical termination of pregnancy: Proposed amendments to the *Termination of Pregnancy Act 2018* and *Criminal Code Act 1899***.<sup>3</sup> This is an appropriate and timely change in line with the previous amendment. ACN supports this change.

#### **Amendment to the *Public Health Act 2005***

The amendment will reduce incidences of duplicate reporting of dust lung diseases. ACN cannot comment on this amendment but notes that there were no objections to the communique circulated.

#### **Amendment to the *Mental Health Act 2016***

##### *Admissibility and release of Mental Health Court exhibits and transcripts in criminal proceedings*

The amendments within the Bill allow that transcripts of Mental Health Court proceedings and expert reports are admissible before a criminal court and at the trial of a person for the limited purposes of informing a criminal court’s consideration of a person’s soundness of mind or fitness for trial or for the purpose of sentencing a person.

Given that the amendments limit the purposes for which transcripts and expert reports can be used in trials and proceedings, ACN is satisfied that a person’s right to privacy has been considered when making the amendments. ACN is also aware of the confidentiality provisions within the Mental Health Act offering further protection to the person.

On balance, ACN views the ability to share expert reports as beneficial for planning for or delivering treatment and care to clients. It also can enable mental health services to provide sound evidence about the person.

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<sup>3</sup> Queensland Government (2023) Increasing access to medical termination of pregnancy: Proposed amendments to the *Termination of Pregnancy Act 2018* and *Criminal Code Act 1899*

No date for implementation has been provided in the explanatory notes. ACN advises that the implications of the changes proposed are carefully conveyed to the Mental Health consumers and their carers prior to it becoming law.


*Use of expert reports prior to a Mental Health Court hearing*

The Bill allows that an expert report can be released despite it not having been given as evidence. The Bill will allow experts who provide opinions or evidence to the Court to consider expert reports already before the Court when formulating their opinions and evidence. This will prevent unnecessary delays to proceedings.

ACN supports the reported stakeholder belief that leave of the court should be required to prevent the unchecked use and distribution of sensitive reports for purposes which may not be directly relevant to the person's treatment and care or diversion from the criminal justice system.

ACN shares similar concerns to those stakeholders troubled by the volume of sensitive records potentially being held on a person's Consumer Integrated Mental Health and Addiction (CIMHA) record. ACN would like further measures implemented to ensure that records of a sensitive nature are not able to be accessed from a person's CIMHA unknowingly. The implementation period prior to the Mental Health Act commencing may allow time to assess the level of privacy afforded any person with sensitive data on CIMHA.

ACN does note the other states have similar provisions to allow limited access to expert reports. The Bill will move Queensland closer to the existing legislation in other states and as such, ACN supports the amendments.

If you have any questions in relation to ACN's response to the Bill, please do not hesitate to contact Dr Carolyn Stapleton, Director, Policy and Advocacy, 

Yours sincerely,



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