

## Health Practitioner Regulation National Law and Other Legislation Amendment Bill 2022

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**Submitted by:** Australian Paramedics Association QLD  
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30 May 2022

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**Committee Secretary**

Health and Environment Committee  
Parliament House George  
Street  
Brisbane Qld 4000

Dear Committee Secretary,

**Submission regarding the Health Practitioner Regulation National Law and Other Legislation Amendment Bill 2022**

We refer to our invitation to make a submission as a stakeholder for the Health and Environment Committee's Inquiry into the Health Practitioner Regulation National Law and Other Legislation Amendment Bill 2022 (**the Bill**).

The Australian Paramedics Association Queensland (**APA Qld**) is an association of approximately 1250 members who are registered Paramedics.

We make the following submission about the proposed introduction of a power for the Health Ombudsman and national regulator to issue public statements about persons whose conduct poses a serious risk to public health and safety.

**Part 23 of the Bill, Public Statements**

It is of significant concern to Paramedics that the Bill proposes to enable a regulatory body to make a public statement about a Paramedic for the reason that they are the subject of an assessment or investigation where no findings have been made, or at that stage could fairly be made. In our experience, the regulators have received serious notifications and complaints which, either after a protracted investigation or short investigation, are proven to be untrue. In that respect, we make the following submissions.

**1. Interim Prohibition Orders**

The power of the Health Ombudsman in Queensland (the Health Ombudsman) to issue interim prohibition orders to prohibit or restrict registered practitioners from providing health services is a sufficient power to protect the public and public statements are not only unnecessary but could be



irreparably damaging. It is our experience that registered practitioners who are subject to an interim prohibition are monitored by the regulator to ensure compliance. The risk or non-compliance by a health practitioner is incredibly low particularly where a health practitioner's employer receives notification from the regulator and suspends the practitioner immediately. Public statements are not necessary to mitigate risk when there are other powers in the Bill are sufficient for that purpose.

## **2. Natural Justice**

At the time when a notification is made, the regulator does not have all of the evidence available nor has the evidence been tested as credible or reliable.

The obligation to accord natural justice is a requirement of the government decision making process. While a show cause process is proposed to precipitate a public statement, the information available for disclosure at that time may be entirely insufficient to enable a considered response from the health practitioner. The health practitioner must be provided a genuine opportunity to clear their name and prove the notification is untrue (if it is untrue) prior to a public statement is made naming them. A show cause process in relation to a proposed public statement, at the initial stages of a notification, before the health practitioner has been interviewed would not present an opportunity to present the health practitioner's version of events (in response to the evidence gathered as part of an investigation) or deliver up witnesses to verify their version of events. A public statement in these circumstances would be grossly unfair.

## **3. Right to a fair hearing**

The right to a fair hearing is now enshrined in Queensland legislation under the *Human Rights Act 2019* (Qld). Every person charged with a criminal offence has the right to have the charge or proceeding decided by a competent, independent and impartial court or tribunal after a fair and public hearing. The right to a fair trial in other jurisdictions has been interpreted as extending to the investigation and evidence-gathering phases of the criminal process. The subject of a notification or assessment will often involve a potential criminal offence. The making of a public statement by a regulator about a health practitioner has the potential to undermine the right of the health practitioner to have the evidence fairly gathered where witnesses become aware of the public statement. A public statement by a regulator could also impact the impartiality of a proceeding. The Crime and Corruption Commission do not make public statements at the time of receiving a notification or assessing a complaint because it is premature, unfair and prejudicial to do so. The same reasons are applicable to public statements about registered practitioners.



#### 4. Mental health

The impact of a notification on a Paramedic is significantly distressing (whether the notification is true or not). This distress would be compounded by a public statement about the Paramedic. In our experience, Paramedics who have had a notification made about them are in a fragile mental state either as a result of the notification, or as a result of the notification in addition to an existing health condition such as a post traumatic stress disorder diagnosis. We are concerned that a public statement about a health practitioner would negatively impact the health of the practitioner in a serious way. In circumstances where an investigation into the notification has not occurred at that point and a health practitioner later clears their name, the damage to their health would have been already done.

#### 5. Case study

In 2020, a member of the Australian Paramedics Association Queensland had a serious complaint made about them. The Health Ombudsman took action and issued an interim prohibition. Some 18 months later, after a gruelling investigation, the complainant retracted their complaint and evidence. The interim prohibition was removed and the practitioner returned to practice. If a public statement was made about the notification, prior to the complainant's retraction, that would have irretrievably damaged the health and reputation of the health practitioner.

#### Conclusion

For the reasons set out above, we are seriously concerned that the making of public statements at the notification and assessment stage of a complaint, would be detrimental to a health practitioner later cleared of any wrongdoing. Further, the issuing of public statements is not necessary because of the other powers of the regulators which can adequately protect the public.

If you have any questions relating to this submission, please contact the Secretary on

██████████ or ██████████ or by post to ██████████.

Yours faithfully,

*Patrick Tomkins*

Patrick Tomkins  
Secretary, Australian Paramedics Association Queensland