

Health Practitioner Regulation National Law and Other Legislation Amendment Bill 2022

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Mr Aaron Harper MP
Chair
Health and Environment Committee
Parliament House
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via email: hec@parliament.qld.gov.au, Thuringowa@parliament.qld.gov.au

Dear Mr Harper

We write with respect to the Health and Environment Committee's current consideration of the Health Practitioner Regulation National Law and Other Legislation Amendment Bill 2022.

As the bill proposes to amend a national law, our federal counterpart, the Australian Medical Association (AMA), is making a submission to the Committee as the peak professional body for doctors Australia-wide.

AMA Queensland supports the sentiment and content of the AMA's submission.

In conjunction with AMA's submission, AMA Queensland would like draw your attention to a specific area of concern for our members.

While doctors support many of the proposed changes to the National Law, AMA Queensland's members are alarmed by amendments in clause 20 of the bill, which would amend the *Health Ombudsman Act 2013* to facilitate the issuing of a public statement about a practitioner prior to a finding being made against them.

Further, the proposed section 90AB(4) provides for only one day's notice to appeal a regulator's decision to issue a public statement. This is patently inadequate.

These amendments contravene fundamental legislative principles relating to natural justice. They expose medical practitioners to risks of permanent and irreparable reputational damage based on unfounded accusations. Naturally, where a practitioner is subject to an accusation that has been fully and fairly investigated and substantiated, then a public statement to protect public health and safety may be fully justified and would garner the support of the medical profession.

In advance of the full and fair investigation and substantiation of a complaint, other existing mechanisms can be employed to protect the public from a practitioner suspected of causing harm.

The profound risks posed by these amendments are compounded by the inadequacy of proposed sections 90AC (Revision of public statement) and 90AD (Revocation of public statement). The requirement for a public statement to be revoked if the grounds no longer exist, or never existed, is wholly insufficient to remedy the harm caused by an inaccurate public statement. The unfounded accusations will remain available, permanently, in the public domain, and a revocation by the regulator cannot effectively and practically correct the public record.

Even if a practitioner had the time and resources to attempt to correct the public record, Australian law contains no provision for a 'right to be forgotten' comparable to the European Union's 'right to erasure' in Article 17 of the General Data Protection Regulation. Even in jurisdictions where such a protection exists, enforcing a right to be forgotten is near impossible.

There is already significant unease within the medical profession about the handling of vexatious or misguided complaints. This apprehension compounds the extreme stress inherent in practising medicine. Fear of publication of an unproven allegation is likely to further exacerbate pressure on members of this vital profession at a time when we should be protecting, preserving and promoting the wellbeing of our health workforce.

For your information, we have also enclosed an advanced copy of an article written by members of AMA Queensland's Committee of Doctors in Training, *100 Years of Physician Suicide*. The article is due for publication and is not suitable for further distribution at this time.

Yours sincerely



Dr Maria Boulton
President
Australian Medical Association Queensland



Dr Brett Dale
Chief Executive Officer
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Enclosure: *100 Years of Physician Suicide* by Dr Natasha Abeysekera, Dr Rachele Quested, and Dr Robert Nayer