

Public Health and Other Legislation (COVID-19 Management) Amendment Bill 2022

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Submitter Comments:

There is a valid reason why the current emergency powers that arise under the state of emergency must be temporary to avoid the abuse of power. However, this Bill is effectively transferring part of these temporary powers to permanent powers without the need to declare a state of emergency. This is very concerning and this almost guarantees that the abuse of power will happen, just a matter of when and how. We are in the post-pandemic time. The majority of the people are already educated enough to know how to prevent and manage COVID-19. There is no urgency that requires such emergency powers to continue to exist. This is highly unlikely. Should the situation give rise to the need for emergency power, another state of emergency could be declared under the current arrangement. It is completely unjustifiable for the CHO to retain powers to restrict movement and implement a vaccine mandate in a post-pandemic time. The Bill fails to justify why the current state of emergency cannot sufficiently allow the government to manage the situation. The Bill fails to consider other alternatives or options but only focuses on one option. This is a very unbalanced Bill and should be rejected. There is no mention of how the government is prioritising medical resources to help manage COVID-19 as if saying having permanent emergency powers is the only way to handle the situation. How about increasing support for medical research, delegating doctors to prescribe drugs based on their professional judgement, public education, improving access to a wide range of medication and medical supplies, or having better communication/ arrangement between public and private hospitals, etc. The Bill fails to establish that but only seeks to extend emergency powers as if it is the only solution. The emergency powers exercised by the CHO during the pandemic have already raised a lot of human rights concerns. Queensland Human Right Commission (QHRC) has already raised its concerns about the infringement of human rights in some of those health directives and the lack of transparency in the decision making. How many of those CHO's directives issued were based on science? If they were, what type of science reports were they based on and what types of science reports were disregarded and did the CHO make a judgement? Were those judgements consistent in every directive? If not, what causes the change? Who have been consulted (if any) in making those decisions? How would we know whether those CHO's decisions were effective and not faulty? How do we know those decisions were not made based on one person's view or interest? The public knows nothing about this decision making process, just like Scott Morrison's secret portfolio. When there is no transparency, and the public has no confidence that credible science has been sufficiently applied in those decisions, it would be irresponsible for MPs to pass such a Bill. I notice that the Bill uses a lot of 'temporary' in its vocabulary. But the reality is that this Bill effectively turns what meant to be temporary emergency (restrictive) powers into permanent (less restrictive) powers without the need for a state of emergency. This -- is very concerning and is a very significant change and deserves a deep and wide consultation and must not be rushed. The Bill does not give a clear, objective and measurable definition of under what circumstance the CHO can exercise those emergency powers. When the Bill is ambiguous and general, it is a bad law, and it will guarantee to give rise to the abuse of power, depending on who and when. Effectively the CHO could have issued a directive based on a comic book or a tweet. Who knows? There is no accountability anyway. It's a joke, but you get the point. The risk of power overreach, the risk of violation of human rights, the risk of misjudgement, the risk of mismanagement, the risk of poor decisions, the risk of conflict of interest or even corruption is very high. Yet, the Bill fails to demonstrate sufficient checks and balances in every step of the process. (1) CHO is an appointed position reporting to the Premier. How do we know the CHO's decision is not compromised or influenced? (2) CHO is not an elected person, so who is going to be

responsible for the mistakes or missed calls the CHO made? Instead, this Bill creates an unchecked vacuum to allow unqualified discretion to be made under CHO's power and nobody is held accountable if those decisions turn out to be completely wrong? Perhaps instead of introducing this Bill, many options can be considered: (a) passing a special law to allow CHO to become an elected office open for any qualified candidate to apply; (b) turning CHO's function into a statutory authority independent from the government operation to avoid conflict of interest and political interference; (c) create an overseeing committee to check and balance the function of CHO and his/her decisions and this commission must include representation from QHRC; (d) institutioning an independent committee to evaluate and review all health directives made by the CHO and should those directives be found to be lack of sufficient scientific evidence and, as a result, causing a significant damage to the society, the CHO should be held accountable as a criminal offence. If a CEO of a corporate firm has to go to jail when committing a financial crime, there is no reason why a CHO cannot be under any form of public scrutiny for the directive decisions made under his/her power. After all, it's all about people's lives.(3) CHO is not a politician, not an economist, not a businessman, but a medical practitioner. A medical practitioner does not need to give regards to other factors but medical ones. However, in reality, every decision made by the government in regard with COVID-19 must be balanced with economic and social risks. How do we know that the majority of the population actually don't mind trading off a bit of health risk with other social and economic benefits? There is no urgency to justify why this Bill has to be passed at this moment. There are still a lot of unknown factors that take time to unfold and assess. This Bill is built on the assumption that many of the decisions made under the emergency powers by the CHO were successful. This is unproven. How do we know the public would be better off without those coercive measures? How do we know whether those decisions or measures were faults and errors? If this cannot be proven, there is no basis for this Bill to start with. The Bill effectively uses CHO's directive power to replace, override and deny independent professional judgement of GPs. As long as the person is a human, there is always risk in decision making. The mere fact that concentrating all powers on one person instead of exercising collective wisdom to reach a social consensus is beyond comprehension.