

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

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Committee Secretary
Health and Environment Committee
Parliament House, QLD 4000

By email: hec@parliament.qld.gov.au

To whom it may concern

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

The Australian College of Nursing (ACN) would like to thank the Queensland Health and Environment Committee for the opportunity to provide feedback on the **Public Health and Other Legislation (COVID-19 Management) Amendment Bill 2022**.

We distributed the documents to select ACN members for comment. Their changes have been incorporated into the attached document.

As the national leader of the nursing profession, ACN supports all measures to ensure the safety and well-being of the community and the health workforce. ACN believes nurses are essential in providing leadership during disruptive events to ensure equitable access to safe and high-quality health care.

ACN welcomes the proposed amendments to the Bill.

If you have further enquiries regarding this matter, please do not hesitate to contact me at

[REDACTED]

Yours faithfully



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Director – Policy and Advocacy
Australian College of Nursing

16 September 2022

ACN's response to the Queensland Government's Public Health and Other Legislation (COVID-19 Management) Amendment Bill 2022

ACN supports the Queensland Government's Public Health and Other Legislation (COVID-19 Management) Amendment Bill 2022. ACN acknowledges the temporary public health emergency will expire on 31 October 2022. However, COVID-19 will remain in the community for the foreseeable future. The virus will continue to mutate and impact the health care system and its workers. Significantly, as mentioned in the previous consultation paper, 'COVID-19 disproportionately affects the unvaccinated, under-vaccinated and cohorts with waning immunity'¹. ACN therefore suggests some measures are required in the future to guide the community towards responsible self-protection.

The public health directions are not novel: the powers conferred on the chief health officers and chief medical officers are all contained in a plan devised in 2016.² The difference now is about the power the Chief Health Officer will adopt, given the government is withdrawing from its management of COVID-19. This change to the legislation will allow Queensland to implement measures in response to the movement of COVID-19 and to comply with recommendations from advisory bodies such as ATAGI and AHPPC. Further, this amendment will bring Queensland in line with most other Australian states and territories with measures in place that are not tied to emergency powers. These changes recognise COVID-19 is ongoing and will continue to disrupt the community, workforce, and the overall well-being of the Australian population. The change to the legislation's title also acknowledges the longer-term impact the pandemic might yet have on the community and the ensuing uncertainty an evolving COVID-19 might bring.

ACN would also like to note the central role nurses play in ensuring the safety and well-being of the community as the pandemic evolves. Nurses have been on the frontline from the beginning: treating the sick and dying, withstanding abuse and violence in hospital wards and residential aged care, establishing and maintaining quarantine facilities, leading vaccination efforts, and applying crucial lessons for future health care reform. As the largest and most geographically dispersed health care profession, nurses provide critical health care to the most vulnerable and socially disadvantaged populations. Throughout the pandemic and as it evolves, nurses will continue to drive health promotion and prevention, and respond to health inequities that arise from the social determinants of health, such as age, gender, socioeconomic status, geographical location, and education. Advanced practice nurses and nurse practitioners will continue to lead immunisation efforts, particularly in rural and remote communities. These nurses are highly skilled and experienced and should be reimbursed accordingly.

Human rights

ACN acknowledges the comprehensive and painstaking work undertaken to ensure the Public Health and Other Legislation (COVID-19 Management) Amendment Bill 2022 complies with the Human Rights Act 2019. ACN also acknowledges that individuals may choose to refuse vaccination for various reasons. However, ACN believes older people have the right to good health in their later years. Those caring for the elderly also have the right to continued good health and to maintain the ability to perform their role safely. Mandating vaccines for those visitors and family members who wish to visit their elderly relatives in aged care facilities seems to be an issue of the rights of the elderly – not just those being visited but others at the facility – and of staff who care for the elderly. Given there is evidence that 'the choice of some individuals to refuse vaccination is likely to affect the health and safety of vaccinated people in a manner disproportionate to the fraction of

¹ Queensland Government, 2022. 'COVID-19 legislation – proposed changes to the Public Health Act 2005'

² Australian Health Protection Principal Committee, 2016. [Emergency Response Plan for Communicable Disease Incidents of National Significance: CD Plan](#). Department of Health.

unvaccinated people in the population³ it would appear only fair to protect the vulnerable from a disproportionate risk of acquiring the disease, and thus to mandate vaccination for those who wish to visit the elderly in a residential care facility.

The Royal Commission into Aged Care Quality and Safety produced a separate report on Aged Care and COVID-19,⁴ stressing the need to allow visitors access to those friends and family residing in aged care facilities. Although ACN disagrees with a blanket ban on entry to aged care facilities, identified aged care facilities may need support to ensure the Royal Commission's recommendations are in place to ensure visitors do not spread COVID-19 into a facility. It would also be wise to ensure visitors are fully vaccinated (or hold an exemption) to help protect not only residents of the facility but also the staff who manage the health and well-being of vulnerable residents.

Mandating vaccination

ACN supports mandated vaccination for those working in all health care settings. Although the move towards employers taking responsibility for mandating employee vaccination has value, particularly in the face of an evolving pandemic, ACN believes all health care settings should continue to require vaccinations for staff, whether those facilities are state or privately owned. ACN remains concerned over lifting the vaccine mandate for health care workers⁵ and trusts the CHO will continue to use their discretion in enforcing vaccination where applicable. ACN welcomes continued vaccination for those working in residential aged care and disability facilities.

Amendment to Corrective Services Act 2006

It is not within ACN's remit to comment on the Amendments to Corrective Services Act 2006 but advises further consultation with health care workers deployed in these settings, with experience of the corrective health care system firsthand. ACN acknowledges that, like many aspects of the health care system, Australian prisons and detention facilities experience disjointed and fragmented management at a state level, but also at the community and local level.

In a recent focus group of ACN members currently working in various Queensland correctional services facilities, concerns were raised over the lack of organisation-wide consistency regarding mask-wearing. Members spoke of the inequity of a ruling where nurses and health care staff were legally mandated to wear masks, while wardens and other staff at the facility were not. This inconsistency has been flagged as a potential flaw in the overall management of COVID-19 in correctional facilities and should be considered when implementing any further legislation. ACN supports the continued health and welfare of health care workers in all settings and the health and welfare of those living in any correctional facility.

Expiry of part

ACN understands the need to provide an end date for the provisions and time-limit the measures. However, given the fluidity of the pandemic, it may be worth clarifying whether these measures can be prolonged in the event of another, more virulent strain of COVID-19 emerging.

Recommendation

Overall, ACN supports Queensland's Public Health and Other Legislation (COVID-19 Management) Amendment Bill 2022 and welcomes all measures to keep the impact of an evolving COVID-19 under control.

³ Fisman, DN, Amoako, A, Tuite, AR, 2022. Impact of population mixing between vaccinated and unvaccinated subpopulations on infectious disease dynamics: implications for SARS-CoV-2 transmission. CMAJ. 2022 Apr 25;194(16): E573-E580. doi: 10.1503/cmaj.212105.

⁴ Pagone, G, and Briggs, L, 2020. 'Aged care and COVID-19: a special report'. [Royal Commission into Aged Care Quality and Safety. Final Report: Care Dignity and Respect. Volume 5 Appendices.](#)

⁵ D'Ath, Y, 1 September 2022. [Changes to COVID vaccination mandates for healthcare workers](#) [media release] Queensland Government.

ACN's Responses to Changes to the Queensland Public Health Act 2005

Description			ACN Comments
Part 1 Preliminary			
Clause 1			Agree.
Clause 2			Agree.
Part 2 Amendment of Corrective Services Act 2006			
Clauses 3 - 7			ACN does not feel it in its remit to comment on the Amendments to Corrective Services Act 2006. However, ACN members have commented on the inequity of a ruling that mandated face masks for health care workers but not for other correctional staff. This runs contrary to any notion of keeping the community safe from COVID-19.
Part 3 Amendment of Public Health Act 2005			
Clause 8		Act amended	ACN acknowledge the amendments.
Clause 9	Insertion of new Chapter 3, pt. 5A	Covering public health directions for COVID-19	ACN welcomes the identification of COVID-19 into the Act. It acknowledges the longer-term impacts of mutating COVID-19 in a population with waning immunity.
Part 5A Public health direction for COVID-19			
Division 1: Preliminary			
	New Section 142A	Application of part	ACN believes it provides sound parameters for the definition of COVID-19.
	New Section 142B	Definitions of part	These are clear definitions particularly relating to who might be considered a worker under the Act.
	New Section 142C	Meaning of justification statement	This section ensures the chief health officer's directions are valid and fair and provides some oversight. ACN agrees with this measure.
	New Section 142D	Relationship with other provisions of the Act	Agree.

Description			ACN Comments
Division 2: Public health directions			
	New Section 142E Subsection 1	Power to give a health direction Mask wearing and isolation related to COVID-19 Mandatory vaccination for workers in certain workplaces	ACN agrees with these health directions. Mask wearing, isolation and quarantine are simple precautions that can help prevent or limit the spread of COVID-19. Reducing the burden of the disease will help to reduce the impact COVID-19 has on all health care workers. Continuing to mandate vaccination for workers is a crucial measure that will help the vulnerable and keep workplaces running.
	New Section 142E subsection 2	Length and number of isolation or quarantine periods	COVID-19 is changing and there are more reports of people becoming sick a second or third time in succession. ACN supports this measure.
	New Section 142E subsection 3	Reason for giving health direction	ACN agrees with this subsection.
	New Section 142E subsection 4	COVID-19 advisory bodies	ACN agrees with the definitions.
	New Section 142F Subsection 1	Public health direction-related requirements	Public health direction requirements are all supported by ACN.
	New Section 142F Subsection 2	Parameters	Agree.
	New Section 142F Subsection 3	Workplace operators must take stated steps to comply	ACN welcomes the onus on workplaces to regulate compliance by their workforces.
	New Section 142F Subsection 4	Travel and delay before entering a place where vulnerable people reside	ACN welcomes the requirement for those who have been isolated due to COVID-19 to be excluded from places where vulnerable people reside. This should protect those such as the elderly from COVID-19.
	New Section 142F Subsection 5	Requirements for vaccination of workers and managing records of workers	ACN also welcomes the requirement for identified workers to be vaccinated (or have an exemption) and to have their status recorded by the employer or worksite.
	New Section 142F Subsection 6		

Description			ACN Comments
	New Section 142F Subsection 7	Definition of vaccination status	Agree.
	New Section 142G	How public health direction is given	Agree.
	New Section 142H	Requirement to prepare and publish justification statement and inform affected persons	Agree.
	New Section 142I	When public health direction takes effect and expires	Agree.
	New Section 142J	When public health direction must be revoked	Agree.
	New Section 142K	Offence to contravene public health direction	Agree.
	New Section 142L	Application of particular provisions to public health direction	Agree.
	New Section 142M	The chief health officer may not delegate particular functions or powers	Agree. This is a sensible measure to ensure the powers are not misused.
Division 3: Enforcement of public health directions			
	New Section 142N	Power to enter places	These measures are reasonable.
	New Section 142O	Power to seize evidence at places	Is there a measure to ensure that the authorised person does not seize something irrelevant to the investigation?
	New Section 142P	Dealing with seized things	Consider how a seized thing should be noted, recorded, filed, and stored.
	New Section 142Q	Enforcement by an authorised person	ACN supports the inclusion of allowing a person to voluntarily comply with the public health direction.
Division 4: Compensation			
	New Section 142R	No entitlement to compensation	ACN supports the <i>No entitlement</i> to compensation section.
Division 5: Expiry of part			

Description			ACN Comments
	New Section 142S	Expiry of part	In the event of COVID-19 continuing to evolve and impact the community, what is the mechanism to expand these measures beyond October 2023?