



13 January 2021

Committee Secretary
Health and Environment Committee
Parliament House
George Street
BRISBANE QLD 4000
Via email: hec@parliament.qld.gov.au

Dear Committee Secretary,

**RE: Public Health and Other Legislation (Extension of Expiring Provisions)
Amendment Bill 2020 – NPAQ Submissions**

The Nurses Professional Association of Queensland (NPAQ) is a non-partisan, industrial association of employees as recognised under section 12 of the Fair Work Act 2009 (Cth) that provides services to nurses, nursing assistants and personal carers. The NPAQ represents around 6,500 nurses, midwives and affiliates.

In summary, our primary concern is that the Chief Health Officer should not be delegating her responsibilities to faceless bureaucrats who can potentially use their delegated power to impose huge costs on citizens as a result of hotel quarantine. Our proposed solution is that the Government should bear the costs. Our reasons are described in greater detail below.

The NPAQ believes that although the proposed Bill, the Public Health and Other Legislation (Extension of Expiring Provisions) Amendment Bill 2020 (the Bill) is primarily targeted at extending the expiry dates of multiple pieces of amending legislation, the Bill provides an important opportunity to re-assess the adequacy and efficacy of existing legislative arrangements and an opportunity to make substantive legislative changes where necessary in light of this reassessment.

Section 64 of the Justice and Other Legislation (COVID19 Emergency Response) Amendment Act 2020 amended the Public Health Act 2005 by inserting a new Part

7B into Chapter 8 of the Public Health Act 2005. This Part 7B included the insertion of a new section 362O into the Public Health Act 2005. Section 362O of that Act provided that during the COVID-19 emergency period, despite sections 81(4) and 455 the Chief Executive may delegate the Chief Executive's powers under section 81 to the Chief Health Officer (CHO) or another person who is a public service officer, or employee or health service employee and the Chief Executive is satisfied that person has the expertise or experience in public health issues necessary to exercise these powers. For context section 81 of the Public Health Act 2005 allows for the disclosure of confidential information by the Chief Executive if the Chief Executive believes it's in the public interest and authorised in writing. Section 455 of the Public Health Act 2005 allows for delegation of the Chief Executive's powers. The newly inserted section 362Q to the Public Health Act 2005 provided that section 362O expired on the 31st of December 2020. Clause 12 of the proposed Bill extends the expiry date of section 362Q to the 30th of September 2021.

The NPAQ submits section 326O should be amended to repeal section 326O(b) which allows the Chief Executive to delegate power to public servants other than the CHO. The NPAQ considers that delegation of authority to the CHO during this pandemic has been an important mechanism for ensuring a timely and effective response to Covid-19. However, the NPAQ also considers that there should be limits to delegation in order to balance other important competing interests, such as economic interests and the rights, liberties and privileges the community would enjoy in normal circumstances. While the infringement or modification of all these things can be justified by extenuating circumstances such as those created by the Covid-19 emergency, it is important to ensure there is transparency in respect to who makes health decisions. Enabling transparency via identifying the decision makers allows for greater scrutiny of decisions and accountability for excellent or poor decision making. Transparency also fosters public confidence in decision making systems. This is because the public recognises the person making the decisions and that person's expertise. The public also gains confidence that mechanisms exist to address poor decision making and to correct those decisions in future.

Section 326O(b) undermines these objectives because it allows for the delegation of power to individuals who are not visible to the community and are not accountable or subject to criticism if they make terrible decisions impacting almost every aspect of the lives of members of the community.

Section 141 of the Community Services Industry (Portable Long Service Leave) Act 2020 provided for amendments to the Public Health Act 2005 by inserting a new

Part 7AA into that Act. Part 7AA provides for the making of regulations in respect to fees incurred due to quarantine under several sections within this part. Section 362MB of the Public Health Act stated a person was in quarantine if the person is required, under a public health direction or a direction given under section 362H(1)(a), to stay at or in a stated place or if the person is a child and their parent is given the equivalent direction. Section 362MC provided for a regulation being able to prescribe fees by reference to the types of costs associated with the person's quarantine and whether the person is permitted to quarantine with one or more other persons in shared accommodation. Section 362MD provides detail on the exact level of liability for payment of each person in quarantine, while section 362ME provides a detailed set of procedures and criteria for the waiver of those fees from the Chief Executive. Finally, section 362MG provided these quarantine measures would expire on the 18th of March 2021. Relevantly to this submission, clause 11 of the Bill would extend the expiry date of these provisions to 30th September 2021.

The NPAQ submits that hotel quarantine is a crucial component of Queensland's strategy to combat the spread of Covid-19 and keep Queenslanders safe. The importance of secure hotel quarantine facilities has been re-affirmed through recent events concerning the B.1.1.7 cluster (more commonly known as the UK variant) at the Grand Chancellor Hotel. However, the NPAQ is troubled by the current fee arrangements mandated by current law and the proposal to extend the status quo until the 30th of September.

First, the NPAQ submits it is unfair to compel returned Queenslanders to pay for hotel quarantine given that quarantine and the restriction of liberty caused by quarantine is a decision of the State made in order to protect the community at large. Given the measures are designed to protect the community, and this decision was made by the State, the costs of that decision should be borne by the State, not by the affected individual.

Second, returning Queenslanders and stranded Queenslanders have already experienced significant hardship. The Department of Foreign Affairs and Trade (DFAT) estimates 40,000 Australians are stranded overseas. Often stranded overseas Australians cannot access jobs or welfare in the countries they are stranded in. This means not having an income stream. Residing overseas can also be very expensive and drain savings. Due to restrictions and uncertainty airlines have substantially increased airfares for all ticket types, frequently cancelled flights with limited refunds and bumped passengers from economy class to business class. Thus, the costs of flying home are substantial. These costs often involve

outlays of thousands to even above ten thousand dollars. This hardship is only going to be exacerbated by the recent announcement to cut the numbers of returning arrivals in Queensland to only 500 returning arrivals per week. This will only prolong the period of time Queenslanders are stranded overseas, further increase flight costs and thus increase financial burden. Given all these factors, compelling individuals to pay quarantine fees in addition to all these costs is deeply unfair and imposes additional unnecessary financial as well as emotional hardship on struggling Queenslanders.

Third, in addition to the financial hardship discussed above, there is also the potential for uncertainty in relation to quarantine times. The recent cluster alluded to above has forced quarantining hotel guests to stay in quarantine a further 14 days. Incidents such as these will in all likelihood not be isolated. The UK variant is already more infectious and requires additional time spent in isolation after a positive test. The UK variant, as well as other developing variants will pose a substantial challenge that will very likely require a flexible response including extending the quarantine period for returning travellers where the circumstances require it. These circumstances are totally out of the control of the individuals contained in quarantine and it would be unfair to impose all the costs from these measures on those individuals.

For these reasons, the NPAQ submits sections 362 MC, 362MD, 362ME, and 362MF should be repealed and a new section 362MH should be inserted to mandate all costs associated with quarantine be paid for by the Queensland Government.



Aenghas Hopkinson-Pearson,
State Secretary

Nurses' Professional Association of Queensland

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