

In reply, please refer to – am:iz

8 August 2007

Mr Peter Lawlor MP  
Chair  
Health Quality and Complaints Commission Select Committee  
Parliament House  
George Street  
BRISBANE QLD 4000

Dear Mr Lawlor

Thank you for the opportunity to provide a submission to the Health Quality and Complaints Commission Select Committee for the review of the performance of the Health Quality and Complaints Commission (HQCC) and the *Health Quality and Complaints Commission Act 2006*. I note the terms of reference of the Committee and offer the following comments.

It is the view of the Queensland Nursing Council (Council) that the transition from the Health Rights Commission to the HQCC has been relatively seamless. The effective collaboration between staff of HQCC and Council has led to the successful establishment of efficient consultation and notification business processes. In addition Council's recent endorsement of a *Memorandum of Understanding – Coordination of Responses to Serious Adverse Health Incidents* reflects its commitment to the establishment of protocols for the sharing of information between both agencies in a timely manner.

However, Council holds a number of significant concerns in relation to the handling by the HQCC of a complaint into the health services provided to a patient at the [redacted] on 14 and 15 October 2005. Council is concerned that the HQCC determined to investigate the complaint so far as it related to the conduct of [redacted], a registered nurse, when Council had already finalised its own investigation of [redacted] resulting in the unnecessary commitment of resources. Council is also concerned about the lack of consultation with Council by HQCC during its investigation and the time taken to complete its investigation. Most significantly, Council is concerned that the HQCC draft report (which was referred to Council for comment) does not properly address the professional standards of [redacted], or the nurse in charge of the relevant shift, but instead focuses on the cause of death of the patient.

Council determined, following its own investigation, to prefer a number of charges against [redacted] under the *Nursing Act 1992* ('the Act'). This determination was made on 6 October 2006. A notice of charge referring the charges to the Nursing Tribunal was settled by Senior Counsel in November 2006. This notice has not been issued at the request of the HQCC. Council is informed that [redacted] is extremely keen to have the charges dealt with as soon as possible.

A chronology of this matter follows.

Council received a complaint from [redacted], in her capacity as the Director of Nursing of the [redacted], on 17 October 2005 about the conduct of [redacted]. It was alleged the nurse abandoned her shift and the care of her patient at approximately 3.30 am on 15 October 2005 and did not make adequate arrangements to ensure that the patient continued to be cared for. The nurse is also alleged to have verbally abused the patient and restrained the patient without authority.

On 18 October 2005, after a Council inspector had interviewed key witnesses, the Executive Officer suspended the nurse's licence to practise in accordance with section 68 of the Act. At its meeting of 4 November 2005, Council determined that the suspension be continued in accordance with section 67 of the Act.

On 4 November 2005, the Executive Officer initiated an investigation into the nurse's conduct. The investigation report was completed in June 2006.

On 18 August 2006, the Professional Standards Committee ('the Committee'), a subcommittee of Council, considered the investigation report and determined to recommend to Council that [redacted] be charged and the matter be referred to the Nursing Tribunal for hearing and determination. The Committee also recommended that the suspension of the nurse's licence continue with the suspension to be reviewed on the outcome of the matter before the Nursing Tribunal.

The nurse was provided with a copy of the investigation report and invited to make a submission about the recommendations of the Committee. At the request of the nurse's legal advisor, an extension of time was granted to make a submission.

At its meeting of 13 September 2006, the Professional Standards Committee considered a submission by the nurse and determined to recommend to Council that:

- a charge be preferred against the nurse and referred to the Nursing Tribunal for hearing and determination;
- the suspension of the nurse's licence be lifted; and
- the nurse be granted limited registration with conditions.

At its meeting of 6 October 2006, Council considered the nurse's submissions and the recommendations of the Committee and determined to adopt the recommendations made by the Committee on 13 September 2006. Instructions were given that day to Council's solicitors to draft a notice of charge.

On 16 November 2006, correspondence was received from Ms Cheryl Herbert, Chief Executive Officer, HQCC, requesting Council delay preferring a charge to the Nursing Tribunal against the nurse as the Commission was conducting an investigation relating to the same matter. Council agreed to this request, although there was no legislative impediment to Council issuing the notice of charge which, by the end of November 2006, was ready to issue.

The HQCC draft report was received by Council on 22 June 2007 and is titled [redacted]

At its meeting of 3 August 2007, Council considered the draft report and its response to the report. A copy of Council's response dated 3 August 2007 to the HQCC is **enclosed**.

Council wishes to reiterate its concerns regarding the timeframes in this matter as it is now over 21 months since the complaint was received and 10 months since Council determined to prefer a charge against the nurse. In addition during this period, the nurse's licence to practice was initially suspended and has since been subject to limitations and a number of conditions.

Whilst Council recognises and respects the important role played by the HQCC in overseeing the standard of the delivery of health care services in Queensland, Council holds a number of concerns about the Commission's draft report as expressed in its letter of 3 August 2007 and

not only because of the recommendation in that report that Council not take any action against R. In particular Council is concerned that the report purports to address the professional standards of 2 nurses when expert evidence was not obtained in respect of a number of aspects of the conduct of R. and no prior comment from Council was sought. As the regulator of professional standards in the nursing profession in Queensland, Council is constantly involved on a state, national and international level in the development of nursing practice standards through its established consultation processes with the profession, other nurse regulatory authorities and stakeholders. It is therefore critical that the HQCC fully consult with Council about complaints concerning professional standards of nursing.

I acknowledge that the Select Committee is not able to investigate or review individual complaints made to the HQCC. However, this submission is intended to highlight what Council perceives in this particular matter to be a flaw in the policies, procedures and systems of the HQCC which has resulted in unnecessary expense and delays in dealing with the complaint at least in so far as it deals with the conduct of R.

Yours sincerely

Anne Morrison  
Executive Officer