

Committee Secretary  
Legal Affairs and Community Safety Committee  
Parliament House  
George Street  
Brisbane Qld 4000  
Email: [lacsc@parliament.qld.gov.au](mailto:lacsc@parliament.qld.gov.au)

### **Submission Regarding the Human Rights Bill 2018**

Dear Committee,

I make this submission regarding the Human Rights Bill 2018 on behalf of Palliative Care Queensland (PCQ), the peak body for palliative care in the state, and of which I am the President. The submission has been approved by the Executive Committee of Palliative Care Queensland.

PCQ respectfully submits that access to palliative care and to adequate pain relief should be included in Queensland's Human Rights Bill 2018. International human rights law recognises the importance of both palliative care and pain management as basic rights of the individual.

Palliative care is defined by the World Health Organization as 'an approach that improves the quality of life of patients and their families facing the problems associated with life-threatening illness, through the prevention and relief of suffering by means of early identification and impeccable assessment and treatment of pain and other problems, physical, psychosocial and spiritual'.<sup>1</sup>

In Queensland, palliative care is provided by specialist palliative care teams, most often based within Hospital and Health Services, but also within organisations such as St Vincent's Brisbane, and Mater Health Services in Brisbane. Palliative care is also provided by community organisations such as Little Haven (Gympie), Cittamani (Sunshine Coast), Karuna (Brisbane), Hopewell (Gold Coast), Hummingbird House (Brisbane) and Ipswich and Toowoomba Hospices.

Unfortunately access to palliative care is not equal across the state. People outside major population centres can find themselves with little or no access to specialist palliative care if it is required for complex symptom management, or even to generalist palliative care provided by GPs, domiciliary nursing services, and public and private hospitals. The aim of both specialist and generalist palliative care is to provide excellent care and support to the patient and family from the time the person is diagnosed as having a life limiting illness, and particularly once it is clear cure is no longer an option.

The Open Society Foundations<sup>2</sup> work to build vibrant and tolerant societies whose governments are accountable and open to the participation of all people, and have published a fact sheet on the topic of Palliative Care as a Human Right.<sup>3</sup> The fact sheet identifies areas of international law relevant to palliative care and pain management:

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<sup>1</sup> <http://www.who.int/cancer/palliative/definition/en/>

<sup>2</sup> <https://www.opensocietyfoundations.org/>

<sup>3</sup> <https://www.opensocietyfoundations.org/sites/default/files/palliative-care-human-right-20110524.pdf>

- The UN Committee on Economic, Social and Cultural Rights (CESCR) - It is critical to provide “attention and care for chronically and terminally ill persons, sparing them avoidable pain and enabling them to die with dignity.”<sup>4</sup>
- Palliative care is a recognized component of the right to the highest attainable standard of health, which is protected in article 12 of the International Covenant on Economic, Social and Cultural Rights, and in article 24 of the Convention on the Rights of the Child.
- According to the UN CESCR, states are obligated to respect the right to health and must not deny or limit equal access to preventive, curative, or palliative health services.<sup>5</sup> These obligations include providing non-discriminatory access to essential medicines and health facilities, especially for vulnerable or marginalized groups.

Furthermore, the UN CESCR in 2009 stated: ‘Disparities between localities and regions should be eliminated in practice by ensuring, for example, that there is even distribution in the availability and quality of primary, secondary and palliative health-care facilities’.<sup>6</sup>

The Australian Human Rights Commission website details the rights of the individual at retirement, including 7. Your right to health > 7.6 Palliative Care.<sup>7</sup>

Relevant publications include:

- ‘Palliative care as a human right’: Cancer Control, by Liz Gwyther.<sup>8</sup>
- ‘Palliative care as an international human right’ by Australian palliative care physician Frank Brennan.<sup>9</sup>

This brief submission sets out some of the evidence available to support the position of Palliative Care Queensland that equitable access to both palliative care and adequate pain management should be specifically detailed in Queensland’s Human Rights Bill 2018.

Yours sincerely



John Haberecht  
President, Palliative Care Queensland

<sup>4</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment 14, The right to the highest attainable standard of health, E/C.12/2000/4, August 11, 2000, para. 25. Quoted in Palliative Care as a Human Right, [www.opensocietyfoundations.org/sites/default/files/palliative-care-human-right-20110524.pdf](http://www.opensocietyfoundations.org/sites/default/files/palliative-care-human-right-20110524.pdf)

<sup>5</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment 14, The right to the highest attainable standard of health, E/C.12/2000/4, 11 August 2000,

[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=9&DocTypeID=11](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=9&DocTypeID=11), para. 34.

<sup>6</sup> UN Committee on Economic, Social and Cultural Rights (CESCR). Forty-second session, Geneva, 4-22 May 2009, Agenda Item 3. General Comment No. 20. Non-discrimination in economic, social and cultural rights (art. 2, para. 2, of the International Covenant on Economic, Social and Cultural Rights). E/C.12/GC/20.

[https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fGC%2f20&Lang=en](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fGC%2f20&Lang=en). Accessed 21 November 2018.

<sup>7</sup> Australian Human Rights Commission. [www.humanrights.gov.au/publications/your-rights-retirement/7-your-right-health-7-6-palliative-care](http://www.humanrights.gov.au/publications/your-rights-retirement/7-your-right-health-7-6-palliative-care). Accessed 23 November 2018.

<sup>8</sup> <http://www.cancercontrol.info/cc2014/palliative-care-as-a-human-right/>. Accessed 22 November 2018.

<sup>9</sup> Brennan, F. (2007), *Journal of Pain and Symptom Management*, 33(5):494-499.

[https://www.ipsmjournal.com/article/S0885-3924\(07\)00155-8/pdf](https://www.ipsmjournal.com/article/S0885-3924(07)00155-8/pdf). Accessed 20 November 2018.