



Department of Health

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File Ref: CAPS1311

21 JAN 2019

Mr Aaron Harper MP
Chair
Health, Communities, Disability Services and
Domestic and Family Violence Prevention Committee
Parliament House
George Street
BRISBANE QLD 4000

Dear Mr Harper

Thank you for the opportunity for the Department of Health to respond to public submissions received on the Health and Other Legislation Amendment Bill 2018.

Please find attached the Department of Health's response to the public submissions. The Department has responded to the issues raised by subject rather than addressing individual submissions.

As discussed with the Committee Secretary, a number of submissions relate only to amendments to the *Retirement Villages Act 1999*, which is administered by the Department of Housing and Public Works. Given the short timeframes for responding to the Committee, the Department of Housing and Public Works will provide its response on these issues separately.

Should you require further information, the Department of Health's contact is Mr James Liddy, A/Director, Legislative Policy Unit, on telephone [REDACTED]

Yours sincerely

A handwritten signature in blue ink, appearing to read "Michael Walsh".

Michael Walsh
Director-General
Queensland Health

21 / 1 / 2019

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Health and Other Legislation Amendment Bill 2018

Departmental response to submissions

The Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee received the following submissions on the Bill:

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| 1 – Rhys Cohen | 25 – Queensland University of Technology |
| 2 – Anne Eagles* | 26 – Tricia Simpson |
| 3 – Gordon Saul* | 27 – Confidential |
| 4 – The Domain Residents Association Inc* | 28 – Lung Foundation Australia |
| 5 – Confidential | 29 – Australian Medical Association Queensland (AMAQ) |
| 6 – Sylvia and Karl Gustafsson* | 30 – Medical Cannabis Users Association of Australia |
| 7 – Multiple Sclerosis Australia and Multiple Sclerosis Research Australia | 31 – Australasian Faculty of Occupational and Environmental Medicine, Royal Australasian College of Physicians (RACP) |
| 8 – Wayne and Lorraine McClear* | 32 – Caxton Legal Centre Inc* |
| 9 – Linda Smith* | 33 – Dr Stuart Reece |
| 10 – Property Council of Australia* | 34 – Lanai Carter |
| 11 – Health Consumers Queensland (HCQ) | 35 – Stockland Communities* |
| 12 – Australian College of Nursing | 36 – Royal College of Pathologists of Australasia Quality Assurance Programs Pty Ltd |
| 13 – Graham Davies* | 37 – Queensland Council for Civil Liberties |
| 14 – John and Dorothy Graf* | 38 – The Local Government Association of Queensland (LGAQ) |
| 15 – MIGA | 39 – Confidential |
| 16 – Drug Free Australia – Queensland Branch | 40 – John Ransley |
| 17 – MEDIFARM | 41- Drug Free Australia – International |
| 18 – Gary and Christine Olive | 42 – Form Submissions (74 received). |
| 19 – Queensland Law Society* | |
| 20 – Name Suppressed | |
| 21 – Wendy Rayner | |
| 22 – David Price | |
| 23 – Lynda Eastburn | |
| 24 – Name Suppressed | |

The numbering and abbreviations shown here are used to refer to the submissions in the table below.

Submissions marked with an asterisk (*) addressed the amendments to the *Retirement Villages Act 1999*. These submissions are being responded to separately by the Department of Housing and Public Works.

Submitter/s	Issue	Departmental response
Repeal of the Medicinal Cannabis Act		
<p>1 - Rhys Cohen</p> <p>7 - Multiple Sclerosis Australia and MS Research Australia</p> <p>11 - Health Consumers Queensland</p> <p>12 - Australian College of Nursing</p> <p>15 - MIGA</p> <p>17 - MEDIFARM</p> <p>18 - Gary and Christine Olive</p> <p>20 and 24 - names suppressed</p> <p>26 - Tricia Simpson</p> <p>29 - AMAQ</p> <p>30 - Medicinal Cannabis Users Association</p> <p>34 - Lanai Carter</p> <p>37 - Queensland Council for Civil Liberties</p> <p>40 - John Ransley</p>	<p>Support or partial support for repeal of the <i>Public Health (Medicinal Cannabis) Act 2016</i></p> <p>These submissions either:</p> <ul style="list-style-type: none"> • support the proposed amendments; or • support the proposed amendments but suggest a range of further reforms to medicinal cannabis and/or cannabis regulation (discussed below). 	<p>General support for the reform is noted.</p> <p>The Department notes that several submissions mentioned the availability of guidelines and other supporting material for health practitioners.</p> <p>A range of guidance material has been produced by the Commonwealth Department of Health in collaboration with State and Territory health departments. Queensland Health has published Clinical Guidance for the use of medicinal cannabis products in Queensland. Professional bodies also play a role in professional development opportunities for their members.</p>
<p>16 - Drug Free Australia (Queensland)</p> <p>41 - Drug Free Australia (International)</p> <p>33 - Dr Stuart Reece</p>	<p>Not support any relaxation of provisions regarding medicinal cannabis</p> <p>These submissions strongly recommended that no changes be made to the regulatory framework for medicinal cannabis in Queensland.</p> <p>Drug Free Australia (International) expressed concern that the Medicinal Cannabis Act's repeal would lead to the provision of substandard cannabis products which</p>	<p>The proposed repeal of the Medicinal Cannabis Act will reduce the complexity and duplication associated with doctors prescribing medicinal cannabis in Queensland.</p> <p>The reforms will not affect how medicinal cannabis products are dealt with by the Therapeutic Goods Administration, including the scheduling of medicinal cannabis products and the quality standards that are imposed. All medicinal cannabis products in Australia must meet the minimum quality requirements and microbiological standards set by the Therapeutic Goods Administration.</p>

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	have not undergone rigorous clinical testing to masquerade as medicine.	
<p>16 - Drug Free Australia (Queensland)</p> <p>33 - Dr Stuart Reece</p>	<p>Concern regarding the use of cannabis during pregnancy</p> <p>These submissions discussed studies focusing on the effects of cannabis use during pregnancy.</p>	<p>The articles cited are primarily focused on the illicit or recreational use of cannabis. The focus of the Bill is on the regulation of medicinal cannabis.</p> <p>There are many therapeutic products that are known to cause complications during pregnancy or breastfeeding. Whether a patient is prescribed a medicinal cannabis product will be a matter for their treating medical practitioner to determine based on the available evidence and for the Therapeutic Goods Administration to approve.</p> <p>Queensland Health guidance currently recommends that medicinal cannabis that contains Tetrahydrocannabinol (THC) is generally not appropriate for patients who:</p> <ul style="list-style-type: none"> • have a personal history or strong family history of psychosis or have concurrent active mood or anxiety disorder; • are pregnant, planning on becoming pregnant, or breastfeeding; or • have unstable cardiovascular disease.
<p>1 - Rhys Cohen</p> <p>11 - Health Consumers Queensland</p>	<p>Prescribing medicinal cannabis</p> <p>These submissions proposed that general practitioners should also be able to prescribe medicinal cannabis without an approval from Queensland Health, suggesting that this could lead to timely and more affordable access for consumers.</p>	<p>All medical practitioners, including general practitioners, will be able to prescribe schedule 4 medicinal cannabis products.</p> <p>The reforms to the regulation of medicinal cannabis will mean that all specialists, including specialist general practitioners will be able to prescribe schedule 8 medicinal cannabis without obtaining an approval from Queensland Health. Non-specialist general practitioners will be required to obtain an approval from Queensland Health.</p> <p>Schedule 8 medicinal cannabis is also listed in Appendix D of the Poisons Standard. Therefore, additional state-based controls that authorise who can prescribe these types of medicinal cannabis are required. The Department considers that requiring non-specialist practitioners to seek an approval from the Department before prescribing schedule 8 medicinal cannabis is an appropriate additional control.</p>
<p>17 - MEDIFARM</p> <p>18 - Gary & Christine Olive</p> <p>Submissions 20 and 24 (names suppressed)</p> <p>30 - Medicinal Cannabis Users Association of Australia</p>	<p>Other proposals about the regulation of cannabis</p> <p>Submissions made suggestions about other potential reforms to the regulation of cannabis, including medicinal cannabis, in Queensland. These included:</p> <ul style="list-style-type: none"> • changes to the scheduling of cannabis products by the Therapeutic Goods Administration; • addressing the high costs of medicinal cannabis; • addressing the high costs of consultation fees; • allowing adults to grow a limited number of their 	<p>The Department notes that these proposals are matters for government that are outside the scope of the Bill.</p> <p>The scheduling of medicinal cannabis products is determined by the Therapeutic Goods Administration.</p> <p>The cost of medicinal cannabis products is determined by the supplier of the products and factors such as the cost of production, wholesale and retail related mark ups, packaging, handling, storage and any fees charged by the pharmacists as 'dispensing fees'. These issues are outside the scope of the Bill.</p>

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34 - Lanai Carter 37 - Queensland Council for Civil Liberties 40 - John Ransley	<p>own plants for medicinal use;</p> <ul style="list-style-type: none"> allowing more flexibility in the approvals system to adjust factors like dosage, type and supplier; legalisation of cannabis without restrictions; and establishing a compassionate access scheme similar to the NSW Terminal Illness Cannabis Scheme. 	<p>Several submissions advocated for the relaxation of the criminal provisions regarding cannabis use. This is outside the scope of the Bill.</p> <p>Cannabis is a dangerous drug under the <i>Drugs Misuse Act 1986</i> and the <i>Drugs Misuse Regulation 1987</i>. Any person unlawfully possessing, producing, supplying or trafficking in cannabis commits a criminal offence. Section 4 of the <i>Drugs Misuse Act</i> defines 'unlawfully' as meaning without authorisation, justification or excuse by law. No State or Territory government has legalised the use of recreational or unregulated cannabis. The <i>Drugs Misuse Act</i> and <i>Drugs Misuse Regulation</i> are administered by the Attorney-General and Minister for Justice through the Department of Justice and Attorney-General.</p>
Public Health Act – Pollution Events		
11 - Health Consumers Queensland	<p>Supports the amendment</p> <p>Health Consumers Queensland also provided feedback from its members about how they would prefer to be notified of a pollution event. Overall, members prefer to be contacted by text, media (including social media) and through Queensland Government websites.</p>	<p>Support for the proposed amendment is noted.</p> <p>The proposed amendments will give the chief executive the power to specify the form of the public notice, for example, a media statement, newspaper notice, radio announcement or letter to impacted persons or entities. The pollution notice must describe the nature of the pollution event, the area that is or may be affected, the type and duration of any actions the public may be required to take to avoid exposure, and any other matters the chief executive considers appropriate. The chief executive will also have the power to prescribe the time within which the notice must be made.</p> <p>This will mean that the response is able to be tailored to the type and scale of pollution event and to the population affected.</p>
38 - LGAQ	<p>Does not support the amendment</p> <p>LGAQ's submission noted several concerns with the proposed amendment, including:</p> <ul style="list-style-type: none"> placing responsibility for notifying the public with the polluter poses a risk that the notification may not be appropriate or timely, and that Queensland Health's communications about risks have been appropriate; the absence of a requirement to consult with local government before a direction is made; the lack of a legislated threshold to specify what a significant pollution event is; and how the power will operate in disaster situations. 	<p>The Department notes LGAQ's concerns.</p> <p>The Department considers that a specific power regarding pollution notices is required because the existing powers are focused on responding to the event itself, such as requiring site remediation, rather than notifying the public.</p> <p>With regard to mandating consultation with local government, the need for broader consultation before issuing a notice must be weighed against the risk to public health and the public's right to know, in a timely manner, that a pollution event has occurred. Incorporating a more extensive consultation process would delay the publication of a pollution notice at a time when there could be a significant risk to public health. For this reason, a requirement to consult with local government has not been included as priority has been given to ensuring pollution notices are issued as soon as possible.</p> <p>The Department considers that legislating a threshold for pollution events carries significant risks, given the varying and unpredictable nature of pollution events. For</p>

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		<p>example, numerous pollutants can pose a risk to public health if dispersed in waterways, and it is not practicable to attempt to specify a threshold for each. The Bill provides that a pollution event is the release or dispersal of a contaminant or pollutant that may adversely affect public health. The requirement for the event to adversely affect public health is considered an appropriate threshold.</p> <p>In disaster events, it is not intended that the new power be exercised if public information about health risks from a pollution event that is part of the disaster has already been disseminated. The issuing of a direction is at the chief executive's discretion.</p>
Public Health Act – Notifiable dust lung disease register		
<p>11 - Health Consumers Queensland</p> <p>21 - Wendy Rayner</p> <p>22 - Dave Price</p> <p>23 - Linda Eastburn</p> <p>28 - Lung Foundation Australia</p> <p>29 - AMAQ</p> <p>31 - RACP</p> <p>42 – Form submissions</p>	<p>General support for the reform</p> <p>Submissions generally expressed support for the proposed amendments regarding the notifiable dust lung disease register.</p> <p>Several submissions, including the form submissions, expressed support for silicosis being included on the register and made calls for further government action on silicosis.</p> <p>Health Consumers Queensland discussed several additions to the register, including the ability for the register to capture not just paid workers but others that may be affected, such as neighbours to building sites. Respondents to Health Consumers Queensland's online survey also suggested that information be made public about potential clusters of dust lung disease, that the annual report to the Minister be made public, and that information about companies on the register be made public so that people can make informed choices about working for particular companies.</p>	<p>General support for the reform is noted.</p> <p>The Department notes the strong support for diagnoses of silicosis being included in the register. The Bill will require the chief executive of Queensland Health to be notified of cases of occupational dust lung diseases prescribed in the <i>Public Health Regulation 2018</i>. The draft Health Legislation Amendment Regulation 2018 includes silicosis as one of the prescribed respiratory diseases.</p> <p>A notifiable dust lung disease will be defined as a respiratory disease prescribed by regulation that is caused by occupational exposure to a type of dust prescribed by regulation. The types of dust lung diseases that the register covers ordinarily arise after prolonged exposure. This would generally occur in the workplace. It is unlikely that these types of occupational diseases could develop as the result of incidental exposure to dust.</p> <p>The Bill provides that the chief executive must report annually to the Minister on the number of notifications, types of diseases recorded, actions the Department has taken to implement the purposes of the register and any other information the chief executive considers appropriate. The Bill further provides that the Minister must table this annual report on the notifiable dust lung register in the Legislative Assembly as soon as practicable after receiving it, so the report will be made public annually through this process.</p> <p>Information about individual companies is not intended to be published. The purpose of the register is for Queensland Health to monitor and analyse the incidence of notifiable dust lung diseases, and exchange information about notifiable dust lung diseases with other Queensland Government entities. Any issues involving dust exposure related to particular companies or worksites will continue to be managed through existing processes, such as under workplace health and safety legislation.</p>

Submitter/s	Issue	Departmental response
Transplantation and Anatomy Act – Tissue removal for research purposes		
25 - Queensland University of Technology	<p>Supports the reform and proposes a range of additional amendments</p> <p>Queensland University of Technology noted that the proposed amendment is welcomed by the research community and does, in part, remove some ambiguity.</p> <p>The submission also noted that the Bill presented an opportunity to address other issues with the Transplantation and Anatomy Act that relate to human tissue, including:</p> <ul style="list-style-type: none"> • reviewing and updating the definition of “human tissue” • the ability for tissue banks to recover costs for supplying tissue for research purposes. 	<p>General support for the amendment is noted.</p> <p>The Department notes that the additional proposals raised by Queensland University of Technology are outside the scope of the Bill. However, the Department will consider these issues as part of any future review of the Act. Australia’s Health Ministers are advocating for a national review of human tissue Acts to ensure they are contemporary, based on principles that can accommodate emerging technologies, promote national consistency across Australia and do not contribute to barriers to organ and tissue donation. Health Ministers have asked for the national review to be undertaken by the Australian Law Reform Commission. The decision to refer this matter to the Australian Law Reform Commission is one for the Commonwealth Attorney-General.</p>
11 - Health Consumers Queensland	<p>Further consultation with families</p> <p>Health Consumers Queensland did not make a recommendation supporting or not supporting the proposed change, but highlighted some comments from members regarding the change. These included comments about when consultation and discussion with parents would occur and ensuring that informed consent is strictly part of the process.</p>	<p>The Department notes that all the concerns raised by community members are addressed by the requirements that approved research is to be approved by a Human Research Ethics Committee in accordance with the National Statement on Ethical Conduct in Human Research (National Statement). Informed consent is an essential part of the process and the amendment requires consent to be given as required under the National Statement. The National Statement requires that a person’s decision to participate in research should be voluntary and based on an adequate understanding of both the proposed research and the implications of participating in it.</p> <p>The National Statement also requires that information be presented in a way suitable to the age of the participant. The researcher should consider how they will judge a child’s vulnerability and capacity to consent. Any discussion with children should be guided by their level of comprehension.</p> <p>Researchers and clinicians are required, and will continue to be required, to consult with patients (including their parents if they are children) in the clinical setting when tissue is proposed to be taken for research purposes and to obtain informed consent, as outlined above. This consultation will be tailored to each family’s circumstances.</p>

Submitter/s	Issue	Departmental response
Transplantation and Anatomy Act – Exemptions from the prohibition on trade in tissue		
36 - Royal College of Pathologists of Australasia Quality Assurance Programs Pty Ltd	<p>Supports the amendment, but requests further amendments to the Act</p> <p>The Royal College of Pathologists is strongly in favour of the proposed amendment, but expressed concern that the objective of the amendment will not be fully achieved by the current drafting. It noted that the Act as amended will still require tissue to be subject to “processing or treatment” to gain the benefit of the exemption, while many of the tissue samples it deals with are in their native state.</p> <p>It expressed similar concern about the exemption applying to material being “derived wholly or in part from tissue”, when what it often actually provides is tissue itself, not something derived from tissue.</p>	<p>The Department considers the word “processing” as subjecting something to a series of actions to achieve a particular result. In the instance of quality assurance materials, the Department considers this to be any action performed on the tissue. This action can be either by the pathology laboratory prior to it being sent to a quality assurance provider, or by the quality assurance provider itself, such as cutting/slicing the tissue, putting it on a slide, refrigerating or freezing the tissue, adding a preservative product, or simply packaging the tissue, to enable distribution and examination. Therefore, the Department considers that all tissue sent out to pathology laboratories by the Royal College of Pathologists of Australasia Quality Assurance Programs Pty Ltd and other quality assurance providers as a part of its quality assurance program, are “processed” in some way.</p> <p>In relation to the second issue, the amendment refers to laboratory reagents, quality assurance materials and reference and control materials derived wholly or in part from tissue. The Department considers that any tissue sent out from a quality assurance provider would have gone through some processing and, as such, the wording “derived” from tissue would cover any tissue sent from a quality assurance provider. The Department does not consider the amendments suggested in this submission to be necessary.</p>
Transplantation and Anatomy Act – Location for post-mortem examinations		
11 - Health Consumers Queensland	Supports the amendment	Support for the proposed amendment is noted.
Coroners Act, Cremations Act and Births, Deaths and Marriages Registration Act – disposal of body parts		
11 - Health Consumers Queensland	<p>Supports the amendment</p> <p>One comment from one of Health Consumers Queensland’s members questioned whether the amendment would lead to donated bodies or body parts “being held in perpetuity and used or disposed of at the inclination of the school of anatomy.”</p>	<p>Support for the proposed amendment is noted.</p> <p>The Department notes that section 6 of the <i>Transplantation and Anatomy Regulation 2017</i> requires a school of anatomy to dispose of a body as soon as practicable after the end of the period for which it is authorised to be retained, or otherwise as soon as possible after the body has been used for the purpose for which the retention of the body was authorised.</p> <p>This means that people who donate their bodies to schools of anatomy consent to the period for which a school of anatomy is authorised to keep the body. Bodies are not able to be held indefinitely by schools of anatomy without consent. The proposed amendments will ensure that bodies and parts of bodies are able to be disposed of lawfully as soon as the period of retention finishes.</p>