

QPSU SUBMISSION ON THE EXPOSURE DRAFT OF THE HEALTH PRACTITIONER REGULATION NATIONAL LAW

Public Liability Insurance

The QPSU supports the legal requirement that registered Health Professionals are required to have public liability Insurance and supports the ability of employed Health Professionals to meet this requirement through the coverage of their employer's public liability insurance.

However there is a need to ensure that no Health Professional could face disciplinary proceedings for acts of a "Good Samaritan" providing their services outside of their employment relationship in emergent circumstances.

We therefore suggest a new clause be added to section 73 as follows:

- (c) provided that nothing in this section shall prevent a health professional providing their services in emergent circumstances. Providing a service in such circumstances is not grounds for disciplinary proceedings.

Directing or inciting misconduct or unprofessional conduct.

The QPSU supports the creation of an offence of directing or inciting misconduct or unprofessional conduct, however the penalties are too low.

In the *Vegetation Management Act 1999* the maximum penalty for not complying with a compliance notice is \$166 500.

In Queensland laws there are many pieces of legislation where the maximum penalty for a body corporate is five times the maximum penalty for an individual.

The purpose of this provision is to safeguard the public safety by making it an offence for someone to direct a health professional to engage in misconduct or unprofessional behaviour . The penalty needs to be sufficient to act as a deterrent.

Therefore the QPSU believes the maximum penalty needs to be increased and the maximum penalty for a body corporate to be five times the maximum penalty for an individual.

Furthermore the exemption from this offence in 148(2) is absurd and should be deleted.

Owners and/or operators of health facilities public or private should not be exempt from sanctions for directing or inciting Health Professionals to engage in professional misconduct or unprofessional conduct.

Mandatory Reporting requirements for Health Practitioner

There are exemptions from mandatory reporting for employees of insurance firms and lawyers providing legal advice to a Health Practitioner. The QPSU believes that this exemption needs to be extended to Health Practitioners employed by industrial organisations providing advice to their members.

Employed Health Practitioners utilizing the services of their industrial organisation deserve the same rights of confidentiality as those Health Practitioners using the services of their solicitors.

The absurd situation could arise that a Health Practitioner being sued for malpractice could seek the advice of another Health Professional employed by the insurer and there is no legal obligation on the employee of the insurer to disclose any information.

The same incident subject to the malpractice suit could be the subject of disciplinary action by the employer. If the Health Practitioner was to consult their industrial organisation and the organisation's employee was a Health Practitioner then the organisation's employee would have a legal obligation to report the conduct of the member.

Further still a more absurd scenario is that a Health Practitioner seeking the advice of their industrial organisation would have confidentiality if the organisation's employee was not another Health Practitioner but would be at risk of being reported if the organisation's employee was another Health Practitioner.

We therefore suggest another paragraph needs to be added to section 156 (4) as follows:

- (d) the first health practitioner is employed or an officer of an industrial organisation providing advice to the second health practitioner who is a member of the industrial organisation.

A handwritten signature in black ink, appearing to be 'Alex Scott', with a stylized 'A' and 'S'.

Alex Scott

General Secretary

QPSU