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Medicines, Poisons and Therapeutic Goods Bill  
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## AMA Queensland Response to Medicines, Poisons and Therapeutic Goods Bill Consultation Draft

Thank you for providing AMA Queensland with the opportunity to comment on the consultation draft of the Medicines, Poisons and Therapeutic Goods Bill. We offer the following feedback

### 1. Objective of the Legislation

AMA Queensland is strongly supportive of the objects of the Medicines, Poisons and Therapeutic Goods Bill 2015 (Qld), in particular:<sup>1</sup>

*(c) to ensure persons who are given the authority to deal with the substances have the necessary competencies to do so safely;*

*(d) to ensure persons who are given the authority to deal with the substances have the necessary competencies to do so safely*

We consider that the first responsibility of any piece of health regulation is to protect the public. Ideally, legislation should accomplish this in such a way that isn't detrimental or inhibitive of effective and efficient clinical practice. AMA Queensland has concerns over the interrelation of the offences contained within the legislation and the broad scope and powers of the Office of the Health Ombudsman to accomplish the same objects.<sup>2</sup> AMA Queensland would seek further clarification on their interaction so as to avoid unnecessary duplication in its protection of the public.

### 2. Effect of the Legislation on Medical Practitioners who do not Prescribe Drugs of Dependence

AMA Queensland notes that there is a significant conceptual change in the regulation of doctors' ability to prescribe medications. Under the current legislation doctors have 'as of right' authority to do certain activities, such as administer, prescribe or supply with Schedule 2,<sup>3</sup> 3,<sup>4</sup> 4,<sup>5</sup> and 8 substances under the *Health (Drugs and Poisons) Regulation 1996 (Qld)*,<sup>6</sup> to the extent necessary to practice medicine. The *Health Act 1937 (Qld)*, under which the *Health (Drugs and Poisons) Regulation 1996 (Qld)* is made, prescribes that no penalty may be greater than 80 penalty units.<sup>7</sup>

The proposed legislation conceptually changes this through the clear establishment of offences for the possession,<sup>8</sup> supply,<sup>9</sup> administration,<sup>10</sup> or direction to administer certain medicines.<sup>11</sup> The penalty for these offences ranges from 200 penalty units through to 500 penalty units. A medical practitioner, under the proposed bill, would be classed as an eligible person who may perform regulated activities as prescribed by legislation. Hospitals would also be classed as eligible persons. It is strongly hoped that the regulation noted in the proposed bill is analogous to the *Health (Drugs and Poisons) Regulation 1996 (Qld)*.

<sup>1</sup> Medicines, Poisons and Therapeutic Goods Bill 2015 (Qld) s4

<sup>2</sup> Health Ombudsman Act 2013 (Qld) s3

<sup>3</sup> *Health (Drugs and Poisons) Regulation 1996 (Qld)* s 215

<sup>4</sup> *Ibid*

<sup>5</sup> *Ibid* s 161

<sup>6</sup> *Ibid* s 58

<sup>7</sup> *Health Act 1937 (Qld)* s180

<sup>8</sup> Medicines, Poisons and Therapeutic Goods Bill 2015 (Qld) s31

<sup>9</sup> *Ibid* s33

<sup>10</sup> *Ibid* s34

<sup>11</sup> *Ibid* s36

AMA Queensland reserves judgement on the change as the consultation draft does not provide the proposed regulation. We do retain concerns about the consequences on individual practitioners who exceed the regulation, and act beyond their authority, and whether this will be dealt with as a disciplinary matter, by the Health Ombudsman, or as a civil or criminal matter under the proposed bill. AMA Queensland would appreciate further clarification on this matter.

### **3. Limitation Applying to Eligible Persons for Drug of Dependence**

AMA Queensland, in our feedback to the draft Medicines, Poisons and Therapeutic Goods Bill 2014 noted concern over section 38, relating to the limitation applying to eligible persons for drugs of dependence. It is noted, with continued concern, that section 50 of the proposed bill does not substantively change this provision and, as such, our comments remain the same. Namely:

*“AMA Queensland objects to ... Limitation applying to eligible persons for drugs of dependence being included as an offence with an attached penalty. Medical practitioners support restrictions on the supply of drugs of dependence to drug dependent people. However, the decision to make a prescription is a complex clinical decision, involving many factors, including the specific circumstances of the patient, the patient's health and safety, and wider public health concerns. The threat of sanctions will not assist medical practitioners to make the right clinical decision and may hamper appropriate prescription.*

*Furthermore, the draft legislation contains no definition of what 'urgent medical treatment' means, leaving medical practitioners with little guidance about whether their behaviour will breach the law or not.*

*As currently drafted, it would also seem that this provision also restricts medical practitioners from prescribing a different drug of dependence to the person, from the drug upon which the drug dependent person is dependent. AMA Queensland requests clarification on this point.*

*For these reasons, AMA Queensland does not support the penalty prescribed ... as drafted. AMA Queensland considers that a higher level of culpability is needed if a penalty is to be attached – for example, some kind of intent to break the law should be present.”<sup>12</sup>*

AMA Queensland also provided comment on the term “urgent medical treatment”, namely:

*“[Section 50] refers to an excuse for the provision of a drug of dependence to a drug dependent person if the person needs 'urgent medical treatment'. More guidance should be given as to what constitutes urgent medical treatment.”*

AMA Queensland stands by the comments made in the earlier submission in relation to the limitation applying to eligible persons for drugs of dependence.

### **4. Scheduled Substance Management Plan**

AMA Queensland tentatively supports the introduction of a scheduled substance management plan where required under a substance authority. We note that many healthcare facilities already maintain similar information as a common risk management strategy.<sup>13</sup>

### **5. Transition Time**

AMA Queensland has no particular concerns about the transition timeline outlined in the proposed bill.

### **6. Public Register**

AMA Queensland had initial concerns over the register of substance authorities, administrative action, and qualification information to be held by the chief executive.<sup>14</sup> However, these concerns are allayed by the inclusion of section 120(1)(b) and section 120(2), namely:

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<sup>12</sup> AMA Queensland Response to Medicines, Poisons and Therapeutic Goods Bill 2014 (Qld)

<sup>13</sup> Medicines, Poisons and Therapeutic Goods Bill 2015 (Qld) s97

<sup>14</sup> Medicines, Poisons and Therapeutic Goods Bill 2015 (Qld) s116

(1) Subsection (2) applies if the chief executive is satisfied, on reasonable grounds, the inclusion of particular information on the register would –

...  
(b) identify, or be likely to lead to the identification of –  
(ii) in relation to a drug treatment approval (dependency) – a person authorised to give treatment under the approval.

(2) The particular information must not be included in, or made available for copying from, the publicly available part of the register

AMA Queensland would prefer that medical practitioners are not listed on such a register. Their inclusion would most likely constitute a breach of their individual privacy, as well as provide details of the substance authorities (dependency) that they currently hold. Given the Medical Board of Australia, and the Australian Health Practitioner Regulatory Agency, maintain contemporaneous records of the qualifications and administrative actions against medical practitioners it would seem that their inclusion on such a register would be superfluous.

## 7. Recall Orders

AMA Queensland has no particular concerns about the provisions relating to recall orders contained within the proposed legislation.

## 8. Other Provisions

AMA Queensland is supportive of the ability for the chief executive to urgently impose controls upon emerging substances that are not scheduled to protect the public from harms associated with these substances. Such a move is both prudent and necessary for the protection of the public and is consistent with the medical principle of non-maleficence, namely “first, do no harm”.

## 9. Electronic Prescribing Database

AMA Queensland would like to take the opportunity to implore the Queensland Government to commit to the full implementation of an electronic real-time schedule 8 monitoring system. The importance of such a system has been frequently highlighted by coronial inquests, most recently in the Inquest into the Death of Katie Lee Howman on 27 July 2015. The introduction of such a system has been universally supported by all relevant stakeholders, including AMA Queensland and the Pharmacy Guild of Australia. We believe the system is absolutely essential to accomplish the objects of the legislation and should be **strongly** considered at this time.

## 10. Conclusion

AMA Queensland is supportive of the objectives of the Medicines, Poisons and Therapeutic Goods Bill. We are able to make further comment on any of the points listed above and expect to make a comprehensive submission upon the release of the regulation.

Yours sincerely



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**President**  
**Australian Medical Association Queensland**