

Your ref: Health Legislation Amendment Bill 2014

Our ref: H&D – 3 – Health and Disability Committee

8 October 2014

The Research Director
Health and Community Services Committee
Parliament House
George Street
BRISBANE QLD 4000

By email: hcsc@parliament.qld.gov.au

Dear Research Director

Health Legislation Amendment Bill 2014

Thank you for the opportunity to comment on the *Health Legislation Amendment Bill 2014*.

This letter is written with the assistance of the Health and Disability, Children's and Criminal Law Committees.

Please find our feedback regarding the *Health Legislation Amendment Bill 2014* in the **attached** submission. Please note that this submission is not intended to be an exhaustive review of the *Health Legislation Amendment Bill 2014*.

Thank you for the opportunity to provide comments on the draft. Please contact our Senior Policy Solicitor, Ms Binny De Saram on (07) 3842 5885 or b.desaram@qls.com.au; or our Policy Solicitor, Ms Louise Pennisi on (07) 3842 5872 or l.pennisi@qls.com.au for further inquiries.

Yours faithfully



Michael Fitzgerald
Deputy President

Submission

Health Legislation Amendment Bill 2014

*Queensland Parliamentary
Health and Community Services Committee*

*A Submission of the
Queensland Law Society*

8 October 2014

1. Omnibus Bill

The *Health Legislation Amendment Bill 2014* amends eight Health portfolio Acts, however the Bill title does not refer to “other legislation.” We therefore recommend that the Bill (and future omnibus bills of this nature) refer to “other legislation” in the Bill title so that members of the community are aware that the Bill intends to amend more than one Act of Parliament.

2. Amendment of the Health Ombudsman Act 2013

The Society notes that clauses 17 and 18 fix anomalies in the *Health Ombudsman Act 2013*, particularly to note the appointment of the privacy commissioner under the *Information Privacy Act 2009*. The Society is supportive of the amendments to clauses 17 and 18.

3. Amendment of Tobacco and Other Smoking Products Act 1998

There are a few amendments made to the *Tobacco and Other Smoking Products Act 1998*.

The Society generally supports the amendments restricting the supply, sale and promotion of tobacco, personal vaporizer and personal vaporizer related products to children.

The Society, however, is concerned that clause 57 of the Bill definitively removes the “smoking in an enclosed place exemption” for those in a secure facility under the *Corrective Services Act 2006*. Whilst we understand the ban has been in place since May 2014, we have received reports that the smoking ban has caused unintended and needless disruption in secure facilities. The Society therefore recommends that the ban be reconsidered. Alternatively, if the exemption is to be completely removed the Society recommends that consideration be given to establishing support mechanisms, at a practical level, for smokers in secure facilities (for example nicotine replacement therapy).

The Society supports, overall, the principle of prohibiting smoking on and around health facilities and schools. Clause 26ZGD(3) states the “smoking on school land exemptions:”

“(a) a person at residential premises or on land on which residential premises are built or may be lawfully built; or

(b) a person at business premises or on land on which business premises are built or may be lawfully built; or

(c) a person in a motor vehicle unless the motor vehicle is parked on a road or road-related area.”

Exemptions (b) and (c) above appear to be in addition to the exemptions set out in s26R:

26R Person must not smoke in enclosed place

(1) A person must not smoke in an enclosed place.

Maximum penalty—20 penalty units.

(2) Subsection (1) does not apply to the following—

(a) residential premises, other than a part of residential premises being used for carrying on a business while 1 or more persons who do not reside at the premises are present in the part of the premises;

Example of a person who does not reside at the premises— a person employed in the business

(b) multi-unit residential accommodation, other than the common areas of the accommodation;

(c) a premium gaming room;

(d) a secure facility under the Corrective Services Act 2006.

(3) A person who performs in a theatre or other enclosed place does not commit an offence under this section by smoking during the performance if smoking is part of the performance.

(4) In this section—

common area, of multi-unit residential accommodation, means an area accessible to all, or a specified class of, residents of, or persons employed at, the accommodation.

Example—

a TV room or cooking facilities shared by all, or a specified class of, residents

multi-unit residential accommodation means hotel accommodation, motels, hostels, boarding houses, nursing homes, residential accommodation comprising lots in a community titles scheme and other similar accommodation.

residential premises means premises used, or intended to be used, as a place of residence or mainly as a place of residence and does not include multi-unit residential accommodation.

The Society considers that the new clause 26ZGD(3) and the current s26R may cause confusion and calls for further consideration and examination of these causes and the intent of the exemption.