

8 July 2026

Our ref: LP:MC

Committee Secretary  
Health, Environment and Innovation Committee  
Parliament House  
George Street  
BRISBANE QLD 4000

By email: [REDACTED]

Dear Committee Secretary

### **Health Legislation Amendment Bill 2026**

Thank you for the opportunity to provide a submission in response to the Health Legislation Amendment Bill 2026 (**the Bill**). The Bill proposes amendments to several Acts. This response is limited to aspects of the proposed amendments to the *Mental Health Act 2016* (**Mental Health Act**).

At the outset we wish to acknowledge the efforts of the Legislative Policy Unit, Queensland Health in undertaking public consultation to inform development of the Bill.<sup>1</sup> Engagement with stakeholders at the earliest stage of legislative development is a critical component of creating good law and we are pleased to see feedback incorporated into the drafting of the introduced Bill.

In the time available, our comments are limited to those aspects outlined

### **Mental Health Act Amendments**

#### **Clause 12 Detention for Examination – report on chief psychiatrist’s initiative**

The Bill inserts new section 99A which will allow detention for examination where a psychiatrist report is being prepared on the chief psychiatrist’s initiative under section 93 of the Mental Health Act. Directions to prepare such reports may be given where a person is charged with a serious offence and the person may have a mental condition and may have been of unsound mind when the offence was allegedly committed or may be unfit for trial and the preparation of the report is in the public interest.

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<sup>1</sup> [Health Legislation Amendment Bill 2026](#).

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The power to detain is significant, given limits to a person's autonomy, right to liberty and the adverse effects detention can have on a person's life.

QLS supports the safeguards provided in the Bill including:

- The express requirement for the authorised psychiatrist to tell the person they will be detained or that the period of detention will be extended, and if clinically appropriate, to explain to the person the reason for the detention or any extension of the period of detention; and
- The staged approach which means that a person will be detained for an initial period of 24 hours (and not more than 72 hours starting when the person first attends at the service for the examination).

However, QLS recommends additional safeguards be incorporated to ensure the power is only exercised in rare circumstances, consistent with the policy intention outlined in the Explanatory Notes to the Bill.

In particular, we endorse Legal Aid Queensland's (LAQ) recommendation in their submission to the inquiry that "s 99A(1 )(c) should be amended to reflect the test applied by the MHC in s 670(3) [Mental Health Act], such that the authorised psychiatrist should reasonably believe that there is no other reasonably practicable way to ensure a thorough examination of the person's mental condition, and that detention at the service will support the person to participate in the examination."<sup>2</sup>

Consideration should also be given to ensuring the overarching principles of the Mental Health Act, contained in Part 2, particularly with respect to presumptions of capacity and provision of support and information are operationalised in any exercise of this power.

In this regard, we recommend that Chief Psychiatrist policies be developed to ensure the detention power is only exercised in rare circumstances and in compliance with other safeguards in the Act. For example:

- Considering whether the person could consent to the examination, before exercising an authority to detain;
- Allowing the person to be supported by another person to understand the purpose and effect of the examination; and
- If the person lacks decision-making capacity, explain the purpose and effect of the examination to the person's nominated support persons, guardian or attorney.

QLS would be pleased to assist with reviewing and providing input on any proposed policies.

### **Review of forensic orders (Criminal Code)**

QLS highlights the concerns raised by LAQ in relation to ensuring the availability of legal representation for the review of a forensic order, which will be transferred from the Mental Health Review Tribunal to the Mental Health Court under the Bill.

QLS supports LAQ's submission that an equivalent provision to s 740 of the Mental Health Act should be added so that a lawyer must be appointed by the Mental Health Court to ensure

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<sup>2</sup> [00000013.pdf](#)

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those persons are legally represented where significant decisions restricting the person's rights and liberties may be made.

### **Information sharing powers**

The Bill also includes amendments to allow appropriate officers to disclose personal information to a Commonwealth officer for the purpose of planning and executing the removal, deportation or extradition of a person from Queensland.

### **Clause 40      Insertion of new ch 15, pt 6A**

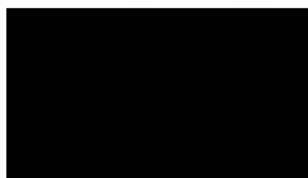
Given the sensitivity of the information being shared, QLS recommends amendments to require the consent of (or at least notification to) the person, that the information is being shared, to who and for what purpose. Clear clinical guidelines will be needed to support appropriate sharing of information in this context. The person's right to privacy and confidentiality of information must be taken into account and personal information only shared to the extent necessary to support the person's treatment and care.

Subject to those comments regarding consent/notice and appropriate guidelines regarding information to be shared, QLS recommends consideration of a mechanism for appropriate officers to notify the Department of Home Affairs or the person's migration agent or lawyer, if known, if a person subject to a mental health order or forensic order is known to be a temporary visa holder.

This is to avoid the situation where the visa holder may be subject to visa expiry/cancellation/refusal but not receive requisite notice of that proposed action or be able to respond to any notice in time because they are in a treatment facility. There are strict time limits that a visa holder may miss if they do not receive, or cannot respond to, a notice regarding their visa.

If you have any queries regarding the contents of this letter, please do not hesitate to contact our Legal Policy team via [policy@qls.com.au](mailto:policy@qls.com.au) or by phone on [REDACTED] [REDACTED]

Yours faithfully



Peter Jolly  
**President**