Health Consumers Queensland submission

Queensland Parliament

Legal Affairs and Community Safety Committee

Human Rights Bill 2018

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About us

Health Consumers Queensland is the peak organisation representing the interests of health consumers and carers in the state.   Health Consumers Queensland is a not-for-profit organisation and a registered health promotion charity and we believe in improving health outcomes for people in Queensland.

Consumers are people who use, or are potential users, of health services including their family and carers. Consumers may participate as individuals, groups, organizations of consumers, consumer representatives or communities.

Our priority focus is on consumer engagement that influences and leads improvements and delivers better health outcomes for all Queenslanders. We achieve this through our Queensland-wide health consumer network, tailored training and skills development programs, and maximising opportunities for consumer representation at all levels of the health system.

Consumer engagement is when health consumers actively participate in their own healthcare and in health policy, planning, service delivery and evaluation at service and agency levels.

Introduction

Our organisation welcomes the opportunity to provide an organisational response addressing this Bill to the Legal Affairs and Community Safety Committee (the committee).

As always, our submissions are focused on these consumer-focused principles of person-centred, integrated health care:

- **Accessibility** - safe, affordable and high quality services, treatments, preventative care and health promotion activities.
- **Respect** - healthcare that meets consumers' unique needs, preferences and values
- **Choice** – a responsive health system which ensures consumer choices in treatment and management options
- **Participation** - patient involvement in health policy to ensure that they are designed with the patient at the centre[1].

HCQ HEALTH CONSUMERS QUEENSLAND

STRATEGIC DIRECTION 2018-2023

MISSION
Health Consumers Queensland enables and empowers consumers to influence, lead and drive better health outcomes

VISION
Consumers and community partnering with the health system for consumer-centred health care for all Queenslanders

VALUES
Leadership
Positive Impact
Fairness
Innovation
Partnership
Zing/Zest

Our Six Strategic Objectives

1. Enabling health consumers and healthcare staff statewide
We build consumer, staff and system capacity to design a health system together through collaborative, integrated and consumer-centred approaches by providing support, strategic advice, training and advocacy.

2. Acting as an agent of change for consumer-centred health care
In partnership with consumers and healthcare staff, we act as a strong voice on system wide issues to influence key decision makers, policies and models of care to deliver a high quality consumer-centred health care system for all Queenslanders.

3. Enhancing effective partnerships
We develop and grow effective organisational partnerships locally, nationally and internationally to achieve consumer-centred health care for all Queenslanders.

4. Building and using evidence
We support consumers and staff to be involved in co-creating the evidence base for health system development and transformation. We act on the evidence of the human lived experience of the health system to build capacity of consumers and to leverage system change.

5. Being transparent and enduring
We demonstrate transparency and responsiveness on behalf of consumers, community and our funders. We maintain strong leadership and governance to assure organisational sustainability and longevity. We support the passion, energy and courage of our staff and members of our Network.

6. Addressing the social determinants of health
We acknowledge that systemic reform of the health system requires recognising the social determinants of health and co-designing models of care that address them.

Areas of Focus

Our areas of focus in implementing our strategic objectives

In partnership with consumers (including vulnerable groups) and staff, we act as a strong voice on system wide issues such as:

- **Healthcare Rights:** Breaches of healthcare rights which prevent fair, just and affordable access to healthcare;
- **Quality & Safety:** Where quality and safety and/or consumer experiences are of concern;
- **Healthcare Standards:** Embedding healthcare standards around consumer engagement, comprehensive care and health literacy; or
- **Systemic Issues:** Complex, difficult or contentious systemic issues.

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[1] International Alliance of Patients' Organizations (2006) Declaration on Patient-Centred Healthcare (IAPO: London) https://www.iapo.org.uk/sites/default/files/files/IAPO%20Declaration%20on%20Patient-Centred%20Healthcare%20Poster.pdf

Objectives of the Bill

The objectives of this Bill are to:

- establish and consolidate statutory protections for certain human rights;
- ensure that public functions are exercised in a way that is compatible with human rights;
- promote a dialogue about the nature, meaning and scope of human rights; and
- rename and empower the Anti-Discrimination Commission Queensland as the Queensland Human Rights Commission to:
    - provide a dispute resolution process for dealing with human rights complaints; and
    - promote an understanding, acceptance and public discussion of human rights.

Health Consumers Queensland acknowledges the Minister's comments in her introductory speech, that:

"(this Bill) …recognises that the equal and inalienable human rights of all persons are essential in a democratic and inclusive society that respects the rule of law.

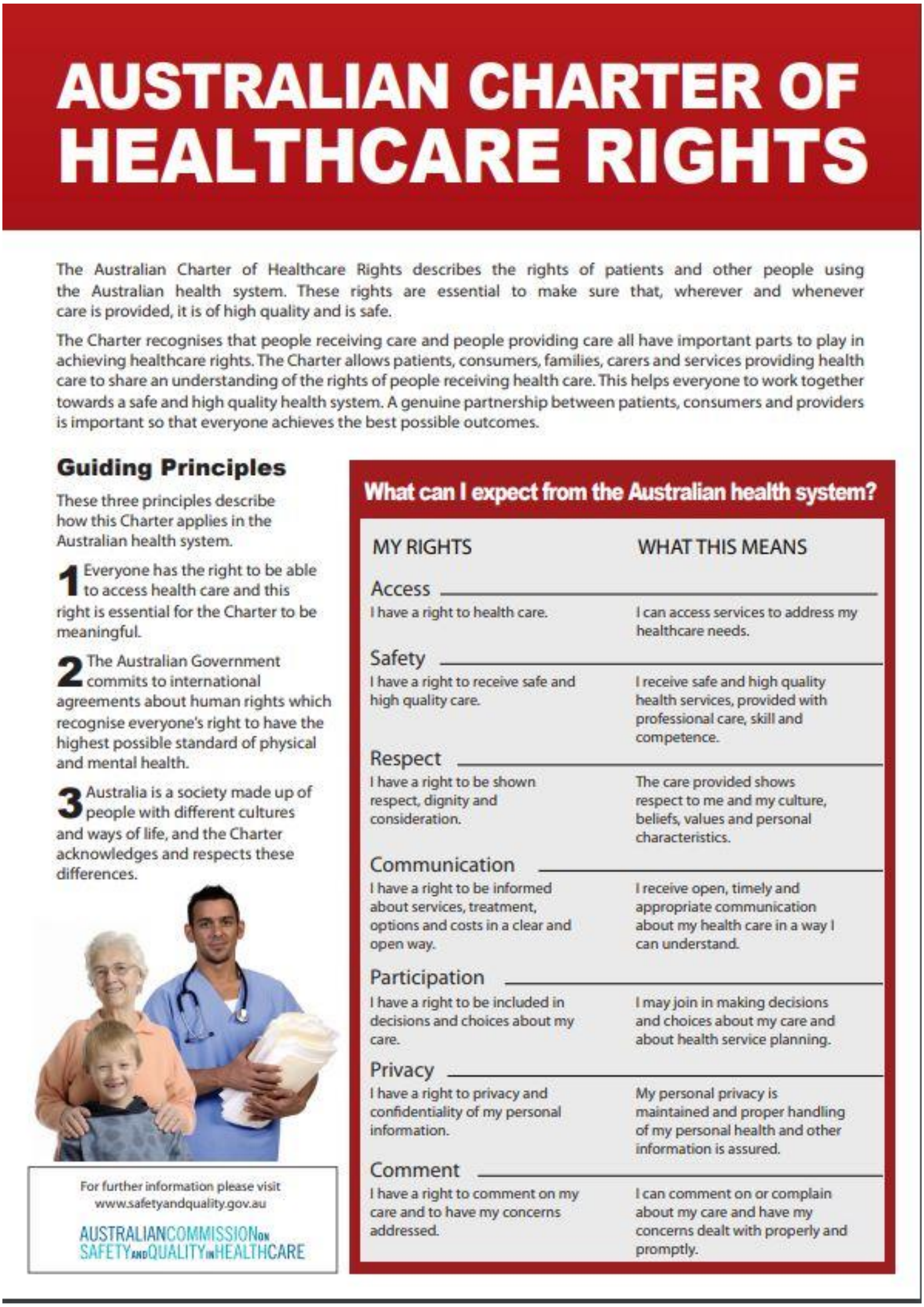
'This Human Rights Bill is about changing the culture of the public sector by putting people first in all that we do. This is about a modern Queensland, a fair Queensland and a responsive Queensland".

Hon. Yvette D'Ath, Attorney-General and Minister for Justice, 31 Oct 2018

These intentions very much align with three focus areas of our organisation's work:

- Healthcare Rights: Breaches of healthcare rights which prevent fair, just and affordable access to healthcare;
- Quality & Safety: Where quality and safety and/or consumer experiences are of concern; and
- Systemic Issues: Complex, difficult or contentious systemic issues.

Our submission addresses four clauses of the Bill - *Protection from torture and cruel, inhuman or degrading treatment; Cultural rights— generally; Cultural rights — Aboriginal peoples and Torres Strait Islander peoples; and Right to health services* – which we believe will legislate the rights currently contained in the Australian Commission on Safety and Quality in Health Care's Australian Charter of Healthcare Rights (following page).



AUSTRALIAN CHARTER OF HEALTHCARE RIGHTS

The Australian Charter of Healthcare Rights describes the rights of patients and other people using the Australian health system. These rights are essential to make sure that, wherever and whenever care is provided, it is of high quality and is safe.

The Charter recognises that people receiving care and people providing care all have important parts to play in achieving healthcare rights. The Charter allows patients, consumers, families, carers and services providing health care to share an understanding of the rights of people receiving health care. This helps everyone to work together towards a safe and high quality health system. A genuine partnership between patients, consumers and providers is important so that everyone achieves the best possible outcomes.

Guiding Principles

These three principles describe how this Charter applies in the Australian health system.

1 Everyone has the right to be able to access health care and this right is essential for the Charter to be meaningful.

2 The Australian Government commits to international agreements about human rights which recognise everyone's right to have the highest possible standard of physical and mental health.

3 Australia is a society made up of people with different cultures and ways of life, and the Charter acknowledges and respects these differences.

For further information please visit www.safetyandquality.gov.au

AUSTRALIAN COMMISSION ON SAFETY AND QUALITY IN HEALTHCARE

What can I expect from the Australian health system?

	MY RIGHTS	WHAT THIS MEANS
Access	I have a right to health care.	I can access services to address my healthcare needs.
Safety	I have a right to receive safe and high quality care.	I receive safe and high quality health services, provided with professional care, skill and competence.
Respect	I have a right to be shown respect, dignity and consideration.	The care provided shows respect to me and my culture, beliefs, values and personal characteristics.
Communication	I have a right to be informed about services, treatment, options and costs in a clear and open way.	I receive open, timely and appropriate communication about my health care in a way I can understand.
Participation	I have a right to be included in decisions and choices about my care.	I may join in making decisions and choices about my care and about health service planning.
Privacy	I have a right to privacy and confidentiality of my personal information.	My personal privacy is maintained and proper handling of my personal health and other information is assured.
Comment	I have a right to comment on my care and to have my concerns addressed.	I can comment on or complain about my care and have my concerns dealt with properly and promptly.

These rights are also contained in the Australian Commission on Safety and Quality in Health Care's National Standards of Safety and Quality in Health Care, against which health services are accredited.

Feedback on achievement of policy objectives of the Bill

Clause 17 Protection from torture and cruel, inhuman or degrading treatment

A person must not be tortured or treated in a way that is cruel, inhuman or degrading. This includes that a person must not be subjected to medical or scientific experimentation or treatment unless they have given their full, free and informed consent.

Drawn from: Article 7 of the ICCPR

We support Subclause (c) that *provides that a person must not be subjected to medical or scientific experimentation or treatment without giving their full, free and informed consent*. We agree with the expansion on article 7 of the ICCPR by *providing that consent must be given for medical treatment, and that consent must be informed*.

It is our experience in hearing feedback and complaints from health consumers that an inherent lack of informed decision making is often at the heart of their poor experience of health care and subsequent poor outcomes. This occurs through people not being given evidence based information about their health care options, the opportunity to ask questions, and being given adequate time to consider the benefits and risks of options.

Legislation must be underpinned by more clinician and community education in order to support true, informed health decision making for all Queenslanders.

Clause 27 Cultural rights— generally

All persons with particular cultural, religious, racial and linguistic backgrounds have a right to enjoy their culture, declare and practise their religion, and use their language, in community with other persons of that background.

Drawn from: Article 27 of the ICCPR

We see this right as underpinning the successful delivery of safe, culturally appropriate care. This required culturally compentent health staff, with the skills and time to communicate with patients from particular cultural, religious, racial and linguistic backgrounds, health services having access to timely and appropriate interpreter services, and respect and provision being given to needs which may arise.

Clause 28 Cultural rights— Aboriginal peoples and Torres Strait Islander peoples

Aboriginal peoples and Torres Strait Islander peoples hold distinct cultural rights as Australia's first people. They must not be denied the right, with other members of their community, to live life as an Aboriginal or Torres Strait Islander person who is free to practise their culture.

Drawn from: Article 27 of the ICCPR and Articles 8, 25, 29 and 31 of the UNDRIP

As above, this right underpins the delivery of safe, culturally appropriate care to Aboriginal and Torres Strait Islander people.

This clause also supports the inclusion of six Aboriginal and Torres Strait Islander specific actions in the revised version of the Australian Commission on Safety and Quality in Health Care's National Standards of Safety and Quality in Health Care.

Clause 36 Right to education

Every child has the right to have access to primary and secondary education appropriate to their needs. Every person has the right to have access, based on their abilities, to further vocational education and training that is equally accessible to all.

Drawn from: Article 13 of the ICESCR

This clause is important for all people accessing health services. Health Consumers Queensland, together with the Department of Health and the Department of Education, have ensured the design of new Adolescent Extended Treatment facility and other services has been informed by meaningful engagement with young people and their families. They have always been clear about the important role of, and right to access education within a wraparound provision of these services.

Clause 37 Right to health services

Every person has the right to access health services without discrimination. A person must not be refused necessary emergency medical treatment.

Drawn from: Article 12 of the ICESCR

We support the inclusion of this right into Queensland legislation, making us the first Australian state or territory to do so. Again, we see it as legislating the rights contained within the Australian Charter on Health Care Rights.

Conclusion

If the Bill is successful in becoming legislation, we look forward to supporting health consumer and community education to promote these rights.