



# **Submission in Relation to the Review of the Public Health Act 2010**

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of New South Wales**

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P&C Federation is pleased to make a submission in response Dr Jeremy McNulty's invitation regarding the Statutory Review of the Public Health Act 2010. We support the periodic review of the Act and submit our comments and recommendations here on behalf of our P&C Federation members all across NSW.

Thank you for the opportunity to comment on the issues that; promote, protect and improve public health; control risks to public health; promote the control of infectious diseases; prevent the spread of infectious diseases; recognise the role of local government in protecting public health.

## **REVIEW OF THE PUBLIC HEALTH ACT (PHA)**

### **Issue 1) Are the objectives PHA valid and appropriate? (PHA p5)**

While NSW state government is best placed to deal with the main aspects of public health, local government is best placed to work closely with schools and community groups because they are aware of issues in the local area. This is of particular importance in rural and regional areas where local governments have greater oversight and understanding of public health issues. Local government, within appropriate guidelines, would be able to act as the frontline defenses. They would be able to make decisions and take initial actions that limit the spread of disease and to ensure compliance that prevents disease.

### **Issue 2) Should s3 include a new objective relating to monitoring NSW Health of diseases and conditions affecting the people of NSW? (PHA p5)**

The P&C Federation believes s3 is particularly relevant to schools, students and those who work, or volunteer at schools. This is important for schools with swimming pools for therapy and public swimming pools that are used by schools for swimming lessons, squad training and swimming carnivals. Local government is in an ideal position to monitor the water quality to maintain safety.

s3 is not limited to swimming facilities; it also includes "regulated systems", such as cooling towers with the addition of food outlets which currently fall under local government jurisdiction in meeting the requirements of food safety.

s4 sets out the responsibilities of local governments to ensure compliance. P&C Federation agrees with the importance of local government officers' role in regulating "environment health premises".

However, local governments currently use their discretion on how they function to protect public health; they tailor their activities to their local area. The discussion paper states mandatory annual testing would not protect public health. Instead, the paper recommends a risk-based approach where resources are directed to areas of highest risk. The ministry recommends this remain unchanged.

The P&C Federation has concerns that self-regulation provides scope for inattention to public health issues which could result in outbreaks of disease or pose a significant risk to the public.

## **3. AREAS FOR REVIEW**

### **Issue 3) Do sections 3 and 4 adequately recognize the role of local government in the PHA? (PHA p6)**

#### **3.2 Part 2 of the Act - Range of Powers (relating to Public Health Emergencies)**

The Health Minister and Health Secretary have a range of powers to respond to public health emergencies; including the power to issue orders and take actions. Yet these powers are rarely used. P&C Federation asks why is it not used more often; seeing it is in the interests of public health?

P&C Federation supports the role of local government in the monitoring and management of public health in NSW but is opposed to any form of self-regulation under the requirements of the PHA.

P&C Federation would support the creation of public health inspection and monitoring teams to ensure local government compliance with the PHA and auditing of their ability to effectively monitor, manage and report on public health issues within their jurisdiction.

### **3.3 Safe supply of drinking water**

#### *3.3(a) Quality assurance programs*

#### **Issue 4) Should a compliance regime be established in the Act in relation to s25 (which requires suppliers of drinking water to establish and adhere to a quality assurance program)? (PHA p9)**

Current provisions in the Act allow the minister and Chief Health Officer to take action where water is unsafe. However, having to resort to ministerial intervention to deal with a public health issue takes time.

Compliance is low for private water suppliers and water carters. (p8) This may be putting participants at risk specifically children and the elderly.

All communities within NSW deserve safe drinking water and s25 allows for a more proactive approach; namely a quality assurance program (QAP) which P&C Federation strongly supports as a mandatory first step towards better public health. A compliance regime overseen by a health monitoring and response group as suggested previously should be established. It should both monitor and audit local QAPs across the state and provide fast response once a breach or public health issue is identified.

#### **Issue 5) If so, should this compliance regime involve:**

- a penalty for non-compliance, and/or
- the ability to issue improvement notices for non-compliance? (p9)

P&C Federation believes that penalties are justified should positive reinforcement in relation to meeting compliance under the PHA fail. Initial notices of non-compliance should then be followed by the issuing of penalties to those in breach of the requirements who refuse or fail to implement positive changes. Those that have genuine issues in being able to comply should be offered assistance where possible.

#### *3.3(b) The role of local government in relation to drinking water*

#### **Issue 6) Should the act be amended to recognize a role of local government authorities in relation to the regulation of private water suppliers and water carters? (PHA p10)**

P&C Federation supports amendment of the PHA to allow local government authorities to regulate private water suppliers and water carters. Given that local government already regulates food safety and septic tanks it is only logical to extend that to the provision of potable water.

Rural and regional local governments in particular have a much greater understanding of the issues surrounding the delivery of water within their jurisdictions. They also obtain their water from regional dams and rivers that may only service a particular town or regional centre. For this reason local governments are generally better placed to deal with the regulation of water supply and delivery.

Metropolitan local governments often receive water from centralized reservoirs or pipelines and therefore have generally consistent supply across many local government regions. Metro local government would therefore be less likely to need the authority to regulate water supply or delivery but still have a responsibility for overseeing the quality of water delivered within their boundaries from a centralized supplier.

### **3.4 Environment health premises – regulated systems, public swimming pools and spa pools [and skin penetration]**

#### *3.4(b) Legionella control*

**Issue 9) Should the act be amended to ensure that the owner of a tenanted building, or the person that the owner has arranged to manage the building, is considered the occupier for the purposes of the provisions relating to regulated systems?**

P&C Federation supports clarification of who is responsible when a building is tenanted. (PHA p12-13)

#### *3.4(c) Public swimming pools and spa pools*

**Issue 10) Should the act be amended to clarify that the definition of public swimming pool applies to a pool in a residential premises where the pool in question is used by members of the public as part of a commercial undertaking by the occupier of the premises?** (PHA p14)

P&C Federation would support pools in a residential premises to be classified as a public pool should the pool be used by school children either to undertake swimming lessons or other school based swimming activities. This may occur more specifically in smaller regional centres where a public pool may be unavailable or non-existent.

### **3.5 Scheduled medical conditions and other disease control measures and notifications – Part 4 and 5 of the act**

#### *3.5(a) Notification of scheduled medical conditions and notifiable diseases.*

P&C Federation supports these reporting measures that are essential for:

- data collection,
- outcomes for specified populations; identifying and monitoring risk factors,
- linkages between one condition and another,
- identifying sources of disease,
- environmental factors,
- risk of transmission,
- care and follow up.

P&C Federation would support the extension of the requirement to notify to chemical testing facilities or laboratories carrying out biological testing and the mandatory reporting in relation to any category 3 condition.

P&C Federation would further support the requirement of medical practitioners to report on the medical condition, transmission and risk factors in relation to a disease or condition notified by the Secretary.

### **3.6 Vaccine preventable diseases**

With regards to the above, the P&C Federation queries whether there is enough being done to prevent outbreaks. (p40)

In particular;

- The current powers are limited only to times where there is an outbreak of a vaccine preventable disease.
- We also query the wisdom of limiting the immunisation status information collected at the time a child's enrolment and not at other times during schooling, such as high school students. P&C Federation would support extending of the collection of immunization records to high schools and the ability to exclude unvaccinated children during outbreaks.

- There is currently no power to exclude an unvaccinated child who has been in contact with a person that has a vaccine preventable disease (and attends a school where there is no outbreak). In such circumstances, parents can be asked to voluntarily exclude their child from school.

Monitoring is an essential addition to the Act. It is our best chance of controlling outbreaks and limiting the spread of potentially deadly diseases.

### *3.6(a) Extension of existing provisions relating to vaccine preventable diseases to high schools*

#### **Issue 25) Should the current provisions in the Act relating to vaccine preventable diseases be extended to apply to high schools? (PHA p39)**

High school students (and teachers, staff and volunteers) can reasonably expect to be protected from vaccine preventable diseases. P&C Federation recommends the sphere of influence and powers be extended to principals of high schools.

P&C Federation supports the amendment of the Act so that a potentially infectious child could be excluded from not only primary schools, but also high schools.

It cannot be presumed that all children were vaccinated prior to starting kindergarten, and will therefore be covered before they start high school. Some students are from countries that do not have an equivalent vaccination schedule to NSW's. Students who are migrants may go directly into high school without having had vaccinations available in Australia. Similarly, teachers and volunteers may not have been vaccinated; they may be at risk and also be a risk to others at school.

### *3.6(b) Actions undertaken during an outbreak of a vaccine preventable disease*

#### **Issue 26) Should the act be amended to allow a public health officer to direct an unvaccinated child whom the officer reasonably believes has been in contact with a case of a vaccine preventable disease be excluded from child care or school, regardless of whether there is an outbreak at the school or child care the child attends? (PHA p40)**

P&C Federation believe it is justifiable for an unvaccinated child to be excluded during an outbreak of an infectious disease. Or if an unvaccinated child has been in contact with someone confirmed to have had a vaccine preventable disease. In the first instance, this would help mitigate the chances of the unvaccinated child contracting a preventable disease. In the latter case, it would prevent other unvaccinated or partially vaccinated children from contracting a disease from the child. In either case, the action would help mitigate the chance of contagion.

Although there may be an impact on the unvaccinated child's learning or exam results if they are removed from the school environment, the safety and health of all children is the most important factor. Contingencies and strategies for returning the child to the school environment post infectious period should be developed to ensure that any child removed under the Act is not unfairly disadvantaged.

#### **Issue 27) Subject to the feedback on issue 25. Should this amendment also apply to students of high schools? (PHA p41)**

P&C Federation supports extending the Act to high school students.

### *3.6(c) Childcare enrolment requirements*

#### **Issue 28) Should the Public Health Act be amended to remove the conscientious objector exemption to enrolment in a childcare facility from the Act, such that the children who are not vaccinated due to their parents' conscientious objection cannot enroll in child care? (PHA p43)**

Although P&C Federation supports vaccination of all children, we acknowledge a parents choice not to vaccinate their own children. As such, we believe unvaccinated children should still be able to enroll in childcare. Parents that have made the choice not to vaccinate need to accept the considerable risks should their child contract a preventable disease including any symptoms, treatments or complications. P&C Federation believes that the same provisions in relation to primary school should apply in the child-care sector. That is, the ability to exclude unvaccinated children during an outbreak or when they are aware that an unvaccinated child has been in contact with an infectious person.