

22 April 2016



www.amaq.com.au

Domestic and Family Violence Taskforce Response Team
Strategic Policy and Legal Services
Department of Justice and Attorney-General
GPO Box 149
BRISBANE QLD 4001

88 L'Estrange Terrace
Kelvin Grove 4059

PO Box 123
Red Hill 4059

Ph: (07) 3872 2222
Fax: (07) 3856 4727

amaq@amaq.com.au

ACN: 009 660 280
ABN: 17 009 660 280

By email: SACPConsultation@justice.qld.gov.au.

To whom it may concern

Re: AMA Queensland Submission on the Sexual Assault Counselling Privilege Consultation Paper

Thank you for providing AMA Queensland with the opportunity to give feedback on the Sexual Assault Counselling Privilege consultation paper.

AMA Queensland is the state's peak medical advocacy group, representing over 6,000 medical practitioners across Queensland and throughout all levels of the health system. We have previously advocated publicly on issues of public health, vaccination and medical regulation. Our members take a very strong interest in medico-legal issues given their importance in the health system in Queensland.

However, not every question presented in the Consultation Paper represents an area in which AMA Queensland would consider its core business. We shall therefore limit our submission purely to those questions which we believe we can provide a meaningful contribution.

As an initial comment, we believe that much of the language in the consultation assumes sexual assault has occurred and been confirmed. For example, Question Two uses the word "victim" as opposed to "complainant." We respectfully suggest that consideration be given to changing this language to remove any potential bias.

From a medical practitioner's perspective, the subpoenaing of evidence where in effect a patient's entire clinical record can be taken, whether relevant or not, is problematic as it may amount to 'digging' for evidence in a way that may undermine the confidentiality of the therapeutic relationship. As part of this process, it may be worth considering ways in which this problem could also be addressed.

Question 6: As medical practitioners, we support and encourage patients to seek appropriate counselling from qualified professionals in circumstances where they need them, such as when they claim to have been the victim of a sexual assault. This counselling is likely to only be effective if the complainant believes it is entirely confidential. As such, AMA Queensland would support any measure that improves people's confidence in accessing these services.

Question 7: We believe it is appropriate for a person who has been assessed as having capacity to make a decision from the age of 16 onwards to be making those decisions. Otherwise it should be the complainant's legal guardian.

Question 11: AMA Queensland understands that we already have an existing process around the granting of special privilege. Existing guidelines advise that evidence may be used as long as the complainant has

given that account before therapy has been commenced. We believe the current process works extremely well.

Question 13: Advice from the AMA Queensland Ethics and Medico-Legal Committee is that hypnosis and regression therapy are generally considered to be very unreliable from a clinical perspective. AMA Queensland is generally supportive of the approaches discussed in this section of the consultation paper.

Question 14: The consultation paper largely discusses complaints made in the present day for present complaints. However, many complaints about sexual assault are often made many years and sometimes decades later. Given the consultation paper's focus on present day complaints, AMA Queensland believes further thought is required to determine how the special privilege may be considered in light of delayed revelations.

Conclusion

AMA Queensland offers in-principle support for the recommendations discussed in the consultation paper. Bringing Queensland into line with other jurisdictions is a welcome and practical outcome. We also believe that this change will provide medical practitioners and complainants with more confidence when discussing alleged incidents of sexual assault. However, we encourage the Department to consider its use of terminology in future discussions on this subject as outlined above, and we believe more thought must be given to how the special privilege will apply in regard to delayed revelations.

If you require further information in regards to this matter, please do not hesitate to contact Mr Leif Bremermann, Senior Policy Advisor, AMA Queensland on 3872 2203.

Kind regards,



Dr Chris Zappala
President
Australian Medical Association Queensland