



# Submission to

## Senate Community Affairs Legislation Committee

My Health Records Amendment  
(Strengthening Privacy) Bill 2018

September 2018

 106 Victoria St, West End Q 4101  
 GPO Box 1289, Brisbane Q 4001  
 (07) 3840 1444  
 (07) 3844 9387  
 [qnmu@qnmu.org.au](mailto:qnmu@qnmu.org.au)  
 [www.qnmu.org.au](http://www.qnmu.org.au)

submission

## **Introduction**

The Queensland Nurses and Midwives' Union (QNMU) thanks the Senate Community Affairs Legislation Committee (the Committee) for providing the opportunity to make a submission to the *My Health Records Amendment (Strengthening Privacy) Bill 2018* (the bill).

Nursing and midwifery is the largest occupational group in Queensland Health (QH) and one of the largest across the Queensland government. The QNMU is the principal health union in Queensland covering all categories of workers that make up the nursing workforce including registered nurses (RN), registered midwives (RM), enrolled nurses (EN) and assistants in nursing (AIN) who are employed in the public, private and not-for-profit health sectors including aged care.

Our 59,000 members work across a variety of settings from single person operations to large health and non-health institutions, and in a full range of classifications from entry level trainees to senior management. The vast majority of nurses and midwives in Queensland are members of the QNMU.

The QNMU believes the introduction of the bill addresses two of the main problems with the existing legislation, *My Health Records Act 2012*. The bill will allow:

- Deletion of a My Health Record. If a person chooses to have their My Health Record deleted, it will be deleted and not just be made unavailable.
- Disclosure of My Health Record information to law enforcement agencies will only be granted with a court order or patient's express consent.

However, we note the exclusion of tighter clauses on portal operators such as app companies who already have access to My Health Record data as well as those companies who will seek permission to access this data such as private health insurers. Given the name of the bill is 'strengthening privacy', it seems a missed opportunity to tighten control of My Health Record.

## **Destruction of records after cancellation on request**

The current legislation allows for data to be retained even when a health record is cancelled. This makes it 'unavailable.' It does not delete all the information and a person's record is kept for 30 years after their death or if the date of death is unknown, 130 years after the date of birth (Australian Digital Health Agency, 2018). The bill will require the Australian Digital Health Agency to permanently delete health information if the user has cancelled their My Health Record. The QNMU supports this amendment.

### **Disclosure to designated entity under order by judicial officer**

This amendment will remove the ability of disclosure of My Health Record information to law enforcement agencies without a court order or patient's express consent. The QNMU supports this amendment.

### **References**

Australian Digital Health Agency. (2018). *Cancel my record*. Retrieved from <https://www.myhealthrecord.gov.au/for-you-your-family/howtos/cancel-my-record>