

Friday, 18 August 2023

To: The Department of Infrastructure,
Transport, Regional Development,
Communications and the Arts,
GPO Box 594
Canberra
ACT 2601

Re: New ACMA powers to combat misinformation and disinformation (*the Communications Legislation Amendment (Combating Misinformation and Disinformation) Bill 2023*)

Dear Officer,

SUBMISSION

The Department of Infrastructure, Transport, Regional Development, Communications and the Arts (the Department) have invited feedback on an exposure draft of the *Communications Legislation Amendment (Combating Misinformation and Disinformation) Bill 2023* (the Bill).

This is a submission made as an Australian Registered Nurse, who by declaration within the registration process, as per the Nursing Midwifery Board of Australia, Code of Conduct [Nursing and Midwifery Board of Australia - Professional standards \(nursingmidwiferyboard.gov.au\)](https://www.nursingmidwiferyboard.gov.au/Professional-standards), which includes the International Code of Ethics for Nurses, [ICN Code-of-Ethics EN Web.pdf](#), has agreed to;

“1.2 Nurses promote an environment in which the human rights, values, customs, religious and spiritual beliefs of the individual, families and communities are acknowledged and respected by everyone. Nurses’ rights are included under human rights and should be upheld and protected.”

In 2020, there was approximately 450, 000 nurses and midwives registered in Australia making nursing the largest clinical workforce in Australia. [Nurses and midwives in Australia | Australian Government Department of Health and Aged Care](#)

Nurses and midwives registered with the Nursing and Midwifery Board of Australia, as per our code of conduct, have agreed and affirmed to embody the values of Honesty, Integrity, Respect and Compassion.

In this submission I will focus on;

That all Australian Nurses have an obligation, as stated in the International Code of Ethics for Nurses, to respect, promote and ensure that human rights, values, customs, religious and spiritual beliefs of all individuals, families and communities, including nurses, are firstly acknowledged, secondly respected and ultimately upheld and protected as such this bill should be rejected by all Australian nurses including nursing leadership bodies.

Australia as a nation is a party to the seven core international human rights treaties. As nurses and midwives registered in Australia enacting the International Code of Ethics for Nursing, all nurses and midwives have agreed to uphold the international human rights treaties, one of which includes the International Covenant on Civil and Political Rights (ICCPR).

Article 19 of the ICCPR – Freedom of Expression

In relation to Human Rights and Nursing I will focus on Article 19 of the ICCPR, extracted as follows:

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
 - (a) For respect of the rights or reputations of others;
 - (b) For the protection of national security or of public order (*ordre public*), or of public health or morals.

The exception presented by Article 19(3) above. The Bill, in its definition of 'Misinformation' at Section 7, includes the qualifier that such information is "reasonably likely to cause or contribute to serious harm".

Without judgement, one could assume this is where the possibility of the Nursing and Midwifery Board of Australia, enacting this proposed parliamentary bill, might attempt to overrule the nurses responsibility in respecting and protecting individuals, including nurses, human rights?

As Australian nurses and midwives registered in Australia, we are to follow National Law. I am in NSW so I will address Health Practitioner Regulation National Law (NSW) No 86a [Health Practitioner Regulation National Law \(NSW\) No 86a of 2009 - NSW Legislation](#)

"3A Guiding principles [NSW]

- (1) The main guiding principle of the national registration and accreditation scheme is that the protection of the health and safety of the public must be the paramount consideration.
- (2) The other guiding principles of the national registration and accreditation scheme are as follows—
 - (a) the scheme is to operate in a transparent, accountable, efficient, effective and fair way;
 - (a1) the scheme is to ensure the development of a culturally safe and respectful health workforce that—

- (i) is responsive to Aboriginal and Torres Strait Islander Peoples and their health; and
- (ii) (ii) contributes to the elimination of racism in the provision of health services;
Example— Codes and guidelines developed and approved by National Boards under section 39 may provide guidance to health practitioners about the provision of culturally safe and respectful health care.

(b) fees required to be paid under the scheme are to be reasonable having regard to the efficient and effective operation of the scheme;

(c) restrictions on the practice of a health profession are to be imposed under the scheme only if it is necessary to ensure health services are provided safely and are of an appropriate quality.

Note— This section is a substituted New South Wales provision. 3B Objective and guiding principle [NSW] In the exercise of functions under a NSW provision, the protection of the health and safety of the public must be the paramount consideration. Note. This section is an additional New South Wales provision.”

It is important to note that the Scheme of Health Practitioner Regulation National Law (NSW) No 86a {NSW} “ is to operate in a transparent, accountable, efficient, effective and fair way”.

As a nurse, embodying the values of integrity, honesty, respect and compassion, addressing specifically the protection of public health and safety in National Law, I would hope that Australian Nursing Leadership would not accept and not want to be exempt from investigation and review of the health information they disseminate and share for public health and safety, but rather lead by example with honesty and integrity and utilise the foundation of scientific investigation evidence based practice to determine the golden standard of healthcare for the Australian Public.

This bill is being proposed by the individuals that are representing the public in democratic process as Federal MP's giving unprecedented powers to ACMA .

Some of the same MP's who have been responsible for the public safety over the past three years and enacted the COVID 19 Response.

The same MP's who have recently voted down, in parliament, the request to investigate excess mortality data occurring in line with the COVID-19 Response and the same MP's who have recently voted down the promised Royal Commission into the COVID 19 Response by the Labour Government prior to the election.

As nurses, we are to uphold integrity and be non-partisan in regards to our National Law and the protection of public safety. We are to stay in integrity, honesty, respect and compassion.

The Australian College of Nursing is Australia's international nursing voice and is a traditional member of the International Council of Nurses. As a traditional member, The Australian College of Nursing is to ensure the ICN purpose and objectives are enacted with the Australian code of conduct embodied values of integrity, honesty, respect and compassion. [ICN Constitution 2021.pdf](#)

“II. PURPOSE AND OBJECTIVES ARTICLE 3 PURPOSE

The purpose of ICN is to represent nurses worldwide and to be the voice of nursing internationally. ARTICLE 4 OBJECTIVES

1. To influence nursing, health and social policy, professional and socio-economic standards world-wide.
2. To assist national nurses' associations* (NNAs) to improve the standards of nursing and the competence of nurses.
3. To promote the development of strong national nurses' associations*.
4. To represent nurses and nursing internationally.
5. To establish, receive and manage funds and trusts which contribute to the advancement of nursing and of ICN."

Since July 2021 up until now, I have written to several nursing leadership bodies including the NSW Nurses and Midwives Association, The Australian College of Nursing, The Australian Nursing Federation and the Nursing and Midwifery Board of Australia, asking for the embodiment of integrity, honesty, respect and compassion from these nursing leaders, and to please share the evidence based science with transparency, that led to the information, policies, public health orders that were supported and enacted by nursing bodies and Australian nurses and midwives, during the covid 19 response over the past three years.

With respect and without judgement, these decisions made did challenge, overrule and potentially violate human rights on many different levels, with the justification of protection of the health and safety of the public and is a topic critical for investigation, understanding and discussion.

I have spoken up for safety at a registered nurse, without judgement with a discerning curiosity to understand why these decisions were made and supported by the Nursing and Midwifery Board for all nurses several times and I have not received an acknowledgement of receipt of my emails. The guiding principles of the national registration and accreditation scheme are to operate in a transparent, accountable, efficient, effective and fair way".

It is essential and of vital importance, to firstly address the transparency, responsibility, and accountability of the covid 19 response over the past three years by calling for an urgent transparent Royal Commission investigating further the specific topic of the proposed bill, that of misinformation and disinformation, in this instance specific to the COVID19 response.

I would hope that an urgent Royal Commision is insisted on by the Nursing and Midwifery Board of Australia, The Australian College of Nursing, NSW Nurses and Midwives Association and the Australian Nursing and Midwifery Federation.

This would be embodying the nursing values of integrity, honesty, compassion and respect as well as fulfilling the guiding principles of the national registration and accreditation scheme by operating in a transparent, accountable, efficient, effective and fair way.

The proposed – Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023, has no place moving forward until the information and responses enacted over the past three years have been transparently investigated with all agencies including government, health and media.

As a nurse I am to embody the international code of ethics for nurses , nurses and human rights position statement and as such, " Nurses are accountable for their actions and inactions in safeguarding human rights.". [Document3 \(icn.ch\)](#)

This is my continuation of action in safeguarding the public and their human rights.

Everyone is human and we all have the potential to get things wrong even when we have the best intention. All the worlds governments are made up of individual human beings with human rights.

Human Rights are universal and inalienable. Transparency builds trust and health care knows that through the National Safety and Quality Health Service Standards, Clinical Governance and open disclosure. This bill destroys transparency of government and leadership bodies and will potentially result in significant reduction of public trust.

This submission comes without judgement, with humility and the pure intention of the highest good for all with the sole focus of protecting human rights for all, public protection and patient safety.

As an Australian Registered Nurse, I fundamentally and vehemently oppose this Bill being the Communications Legislation Amendment (Combatting Misinformation and Disinformation) Bill 2023

In Unity and Humanity

Yours Sincerely,

Lucinda van Buuren RN