

The Commission for Children and Young People and Child Guardian

promoting and protecting the rights, interests and wellbeing of all Queenslanders under 18

Advice to: Sally French, A/Principal Policy Officer, Legislative Policy Unit

Topic: *Health Legislation (Restriction of Cosmetic Surgery and Solaria Use for Children) Amendment Bill 2008*

Date due: 22 May 2008

Thank you for providing the Commission for Children and Young People and Child Guardian ('the Commission') with the opportunity to comment on Queensland Health's *Health Legislation (Restriction of Cosmetic Surgery and Solaria Use for Children) Amendment Bill 2008* (draft Bill), prohibiting solaria use and regulating cosmetic surgery use for persons under 18.

Summary of the Commission's position

The Commission supports the draft *Health Legislation (Restriction of Cosmetic Surgery and Solaria Use for Children) Amendment Bill 2008*.

The Commission recommends that implementation plans for proposed laws should include:

- ongoing review, development and promotion of best practice guidelines in relation to referring of children and young people to an appropriate professional (such as physician, psychologist or psychiatrist) when a practitioner lacks the appropriate qualifications to make this decision, and
- broader education strategies, developed in consultation with children and young people deepen their understanding of self image and promotes their self esteem and belief in themselves.

The Commission acknowledges that Queensland Health has included the Commission's earlier recommendation (30 April 2008) to include the views of children and young people in the decision making process for a cosmetic procedure as defined in the proposed section 213A. The Commission also commends Queensland Health in its efforts to consult with young people to inform the development of the draft Bill.

The Commission appreciates both of these actions.

The Commission supports the proposed section 213B and the provisions to include:

- comprehensive considerations to the reasonableness of belief of a person that the procedure is in the best interests of a child or young person
- that a person must be able to sufficiently prove that they sought the views of a child or young person, including the views of why a child or young person wants the procedure to be performed (if a child's maturity and understanding of the procedure allows)
- that a person must ensure that the child or young person understands the risks, limitations and possible consequences of the procedure
- considerations that recognise the child's ability to consent ('Gillick standard'¹), and

¹ 'Marion's Case' 175 CLR 189. The Court held that a minor is capable of giving informed consent when he or she achieves a sufficient understanding and intelligence to enable him or her to understand fully what is proposed.

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- the need to consider the benefits to the health and ongoing psychological wellbeing of the child or young person.

Implementation of the proposed new laws

The Commission, from its consultation with Queensland Health, is aware of industry stakeholders' arguments against referrals being regulated. The Commission is prepared to acknowledge the situation but recommends the guidelines are reviewed for best practice in relation to this issue considering the diversity of practitioner type and qualifications.

The Commission is of the view that for regulation of cosmetic procedures to be effective it needs to be supported by education strategies that deepen children and young peoples' understanding of self image and promotes their self esteem and belief in themselves.