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# MEDIA RELEASE

## **RIGHT TO HEALTH NOW EMBEDDED IN QUEENSLAND LAW**

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QUEENSLAND'S new *Human Rights Act 2019*, which came into effect on 1 January 2020, is the first in the country to explicitly include the right to health services (Section 37), presenting challenges for the Queensland Human Rights Commission, according to the author of a Perspective published online today by the *Medical Journal of Australia*.

Section 37 of the Act states:

1. Every person has the right to access health services without discrimination;
2. A person must not be refused emergency medical treatment that is immediately necessary to save the person's life or to prevent serious impairment to the person.

"Rights language is part of Australia's public health vernacular, evidenced by the Australian Charter of Healthcare Rights," wrote Dr Claire Brolan, a Research Fellow at the Centre for Policy Futures at the University of Queensland.

"However, unless such rights are expressed in domestic law, then right to health principles and policies are important words on paper without overt legal consequence for effective monitoring and accountability."

Although it is modelled on the right to health in article 12 of the International Covenant on Economic, Social and Cultural Rights, it does not adopt the second element of article 12 – the right to broader health determinants.

"Complainants may nevertheless lodge separate or concurrent claims that capture certain health determinants, such as the right to culture (sections 27 and 28)," wrote Dr Brolan.

"Public health practitioners are well aware that culture is a significant health determinant. Housing is also a major determinant of health, and a housing rights claim (that causally impacts a claimant's health and wellbeing) might be realised under section 24 (property rights). Claims that seek to protect and promote the rights of individuals and communities to access the determinants of health relating to food and water could be sought under the right to life (section 16)."

The Act also covers reproductive health and rights. Section 106 clarifies that the Act "does not affect laws about termination of pregnancy", thereby referring to and upholding the *Termination of Pregnancy Act 2018 (Qld)*. According to Queensland Health, that Act "ensures termination of pregnancy is treated as a health issue rather than a criminal issue" and "supports a woman's right to health, including reproductive health and autonomy".

"Queensland Health already has antidiscrimination policies and protocols for its staff and for its patients and clients," Dr Brolan concluded.

"Therefore, compliance with section 37 and the Act's wider provisions should not be onerous for government and many other public health service agencies bound by the new Act. However, if international right to health experience can teach Queensland anything, it is that government response to allegations of section 37 violations should not be reactive and visible at Queensland Human Rights Commission conciliation meetings alone.

“Advancing the right to health for all Queenslanders will not occur in legal silos but in complement with planned educational and promotional activities that help build a culture in the Queensland public sector and broader community that respects and promotes health and human rights, as well as promotes a dialogue about the nature, meaning and scope of health rights for Queensland’s most important asset, its human capital.

“This will require the engagement of both government and non-government stakeholders, as well as community members, beyond the health sector.”

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