



1 March 2022

Committee Secretary  
Parliamentary Joint Committee on Intelligence and Security  
PO Box 6021  
Parliament House  
Canberra ACT 2600

### **Review of the Security Legislation Amendment (Critical Infrastructure Protection) Bill 2022**

Catholic Health Australia (CHA) is Australia's largest non-government grouping of health, community, and aged care services accounting for around 15 per cent of hospital-based healthcare in Australia. Our members provide around 30 per cent of private hospital care and 5 per cent of public hospital care in addition to extensive community and residential aged care support. Our hospitals operate intensive care units (ICUs) across multiple states and territories.

CHA welcomes the opportunity to provide feedback to the Parliamentary Joint Committee on Intelligence and Security (the Committee) on the proposed *Security Legislation Amendment (Critical Infrastructure Protection) Bill 2022 (the Bill)*. Our members recognise the need to protect critical national assets, including key hospital capabilities, from natural and man-made disasters. However, we have significant concerns around the ability of our member hospitals to meet the prescriptive requirements of this Bill in the timeframes required and without financial support from the Commonwealth Government.

### **Summary of changes to the Bill required to ensure private hospital sustainability**

1. Funding support from the Commonwealth Government is necessary for not-for-profit hospitals to implement the new regulatory requirements in the Bill.
2. In order to successfully build national security risk management capacity, hospital providers will require a longer implementation period than the timeframe currently proposed.

### **Significant financial imposition at a time when hospitals can least afford it**

At a time when private hospitals are struggling through the third year of a pandemic, including intense pressure on our staff and the closure of elective surgeries, the additional compliance requirements demanded by the Bill requirements require funding support from the Government.

Private hospitals were asked to provide detailed estimates of the cost of implementing the Bill's requirements in late 2021 as the Omicron variant of COVID-19 was surging in multiple states. As a result, many private hospital operators were unable to provide the Department of Home Affairs with accurate estimates of their increased cost burden.

The Department's own submission to the Committee estimates that each hospital entity will incur increased costs of \$8.5 million in the first year and ongoing costs of \$5.8 million in ongoing expenses. This represents a significant portion of Catholic hospital's operating margins during normal operations. Our not-for-profit hospitals are varyingly facing higher costs due to the pandemic and severe loss of revenue due to the shuttering of elective surgeries. Some faced further losses over the previous 2 years resulting from the need to utilise the National Partnership Agreement on COVID-19 which precludes the ability to retain an operating margin. What margin our member hospitals do generate is invested in health and community services Australians rely on, to the tune of \$66 million in 2020.

### **Challenging timelines for implementation**

The Bill proposes implementation timelines for changes to risk management strategies that will be complex and costly for Catholic hospitals to achieve. By comparison to government-support public hospitals, the private hospital sector does not have the same maturity in national security risk management. Hospital operators need to build capacity to meet requirements such as:

- Assessing supply chains for foreign ownership and influence risk
- Identifying critical staff and roles that require Auschecks for security purposes
- Implementing physical access restrictions for non-essential staff to areas deemed critical from a national security perspective.

New lines of communication will need to be developed with other organisations, including hospital vendors and unions, who themselves will need to be upskilled to understand how national security risks should be assessed.

This lack of capacity will further exacerbate the costs imposed upon hospitals by this Bill, as the limited expertise available to the market is accessed simultaneously by all private hospital operators (and indeed, other industries).

These new requirements could not come at a worse time for private hospital operators given the extreme and well-documented fatigue of the entire health workforce resulting from COVID-19. This persists throughout all major health organisations in Australia, public and private, and extends from front-line clinical staff through all our support staff.

CHA recommends that the six months for implementation put forward by the Department of Home Affairs to implement risk management measures around physical spaces, staff and hospital supply chains be extended to at least 18 months, with a clear start date identified.



### **'Step in' powers and approach to risk management**

CHA notes that the Bill is not sufficiently clear on when and how the Government may 'step in' and commandeer critical infrastructure such as ICUs. We recommend this be clarified in as much detail as possible, both to provide certainty to business and to allow hospitals to prepare to operate at maximum efficiency should a step in occur.

CHA also notes that the Bill is prescriptive about the form risk management should take. It would make more sense to adopt a universal standard for risk management, such as ISO 31000, and require all hospitals to demonstrate alignment with this standard. Should additional standards be required to meet the Bill's purpose, they should be included in the Bill only where absolutely necessary and be very clear as to their goal.

### **Feedback on consultation process**

CHA was initially made aware of this process via an email seeking contact details for our members in December 2021. That email referenced only reporting requirements for cyber security breaches. We are now aware that the Department of Home Affairs contacted some of our hospital providers for 'town hall' type meetings in November 2021 that were very broad and lacked the detail necessary to understand the impact of this Bill on hospital providers.

Finally, as referenced previously, hospitals were asked for a detailed accounting of the financial impact of this Bill in December 2021, due 5 January 2022. This timing coincides with a period when most hospitals were attempting to manage Australia's largest COVID-19 wave to-date, with the enormous capacity constraints that entailed. As such, CHA considers it unlikely that the Bill reflects appropriate engagement with the private health sector or a sound understanding of the impact this regulation will have on hospital providers.

### **Conclusion**

CHA recognises the importance of critical health infrastructure and the need to protect it in advance of and during national security incidents. While Catholic hospitals support the intent of the Bill, it is important that funding provisions are made for private hospitals to implement the required risk management strategies without impacting our ongoing patient care during the pandemic. Further, private hospitals should be exempted from the currently proposed timeline for compliance with the Bill, or have that timeline extended to at least 18 months.



Catholic  
Health  
Australia

Thank you for considering our submission. If you or your staff wish to discuss matters we have raised, please contact us at [secretariat@cha.org.au](mailto:secretariat@cha.org.au).

Yours sincerely,

A handwritten signature in black ink that reads "Pat Garcia". The signature is written in a cursive, flowing style.

**Pat Garcia**  
**Chief Executive Officer**  
**Catholic Health Australia**