



**ST VINCENT'S
HEALTH AUSTRALIA**

UNDER THE STEWARDSHIP OF MARY AIKENHEAD MINISTRIES

St Vincent's Health Australia

Submission to the Australian Senate's Legal and Constitutional Affairs
Legislation Committee's inquiry into the Migration Amendment (Repairing
Medical Transfers) Bill 2019

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Dear Committee,

St Vincent's Health Australia welcomes the opportunity to respond to the Legal and Constitutional Affairs Legislation Committee's inquiry into the Migration Amendment (Repairing Medical Transfers) Bill 2019.

St Vincent's Health believes that the current measures prescribed by the Home Affairs Legislation Amendment (Miscellaneous Measures) Bill 2018 — commonly referred to as the Medevac Bill — are reasonable and necessary. These measures help to ensure that people seeking asylum and refugees held offshore by the Australian Government in PNG and Nauru can be transferred to Australia for medical treatment, on the advice of medical professionals.

St Vincent's Health Australia

For the Committee's information, St Vincent's Health Australia (SVHA) is the nation's largest not-for-profit health and aged care provider. We operate two public hospitals, 10 private hospitals and 17 aged care facilities in Queensland, New South Wales and Victoria. Along with three co-located research institutes — the Victor Chang Cardiac Research Institute, the Garvan Institute of Medical Research and St Vincent's Institute of Medical Research — we work in close partnership with other research bodies, universities, and health care providers.

SVHA has been providing health care in Australia for 160 years, since our first hospital was established in Sydney in 1857 by the Sisters of Charity. It is the legacy entrusted to us by the Sisters of Charity that continues to inspire us to strengthen and grow our mission to provide care and support to vulnerable and marginalised people, including asylum seekers.

SVHA employs over 19,000 staff and operates more than 2,600 hospital beds and 1,100 residential aged care places. In our hospitals, we provide more than 1 million episodes of care for patients each year.

We are a clinical and education leader with a national and international reputation in medical research. Our areas of expertise include mental health; drug and alcohol services; homeless health; prisoner health; heart lung transplantation; bone marrow transplantation; cardiology; neurosurgery; cancer; clinical genomics; HIV medicine; palliative care; respiratory medicine; and aged psychiatry.

St Vincent's Health's experience with asylum seekers and refugees

St Vincent's Health Australia has a long and proud history providing care and advocacy for the health needs of asylum seekers and refugees. That support includes:

- St Vincent's hospitals providing asylum seekers and refugees with access to our range of services;
- St Vincent's Melbourne's (SVHM) psychiatrists have worked pro bono with asylum seekers at Foundation House, a torture and trauma counseling service;

- SVHM enjoys a Memorandum of Understanding with the Asylum Seeker Resource Centre (ASRC) to provide pro bono pathology and imaging services to the Centre's non-Medicare eligible clients, among other supports.
- SVHM is responsible for administering the statewide Victorian Transcultural Mental Health¹ (VTMH) service, which strengthens the capacity of organisations and agencies to improve the mental health, social and emotional wellbeing of culturally diverse individuals, families and communities. VTMH's training provides specific modules on the mental health needs of asylum seekers.
- St Vincent's Private Hospital Sydney and St Vincent's Clinics have partnered closely with Sydney's Asylum Seeker Centre (ASC) for 16 years and provide a range of pro bono services.
- St Vincent's Care Services – the aged care arm of SVHA – was responsible for setting up the Eltham Project², which provided 60 newly renovated and empty units on the grounds of its Eltham aged care facility in Melbourne's north-east, to be used as medium-term housing by Syrian and Iraqi refugees to assist in their resettlement in Australia.
- St Vincent's Clinic's charity, Open Support, runs Safe Haven³ in western Sydney, a service supporting vulnerable women and children, many of whom are asylum seekers and refugees fleeing partner violence and who aren't eligible for Medicare and other government-provided supports.
- SVHA has made multiple representations to the Minister for Home Affairs, the Hon Peter Dutton, on behalf of asylum seekers in detention on either Manus Island or Nauru requiring urgent medical attention, and requested the Australian Government allow the individuals to come to Australia for their necessary care, and offering to cover their associated health care costs.
- SVHA has repeatedly conducted public advocacy⁴ calling for the Australian Government to reform its processes to enable offshore detainees who require urgent medical care, to be allowed prompt transferral to Australia.
- SVHA supports the Medical Evacuation Response Group (MERG) in its employ of a clinical coordinator to organise and facilitate medical care in Australia for asylum seekers based on Nauru and Manus Island since the passage of the Medevac Bill.

Background to the Medevac law

With 12 deaths and many other concerning reports of self-harm and mental ill-health among people held in offshore detention, there has been sustained and significant criticism from a range of respected international and national institutions, including both individual

¹ <http://www.vtmh.org.au/>

² <https://www.theguardian.com/commentisfree/2018/aug/03/the-project-pauline-hanson-called-a-disgrace-just-proved-her-wrong>

³ <https://www.sbs.com.au/news/the-domestic-violence-safe-house-in-sydney-providing-a-lifeline-for-temporary-visa-holders?cid=news:socialshare:twitter>

⁴ <https://twitter.com/StVHealthAust/status/1101030173254705153?s=20>

medical clinicians and medical peak bodies, that Australia's offshore processing system causes considerable harm.

There is compelling evidence of the shocking impact of substandard healthcare in the offshore detention system. In 2018, Queensland Coroner Terry Ryan found that the death of 24-year-old Hamid Khazaei – who contracted a leg infection in Manus Island detention centre – followed a series of clinical errors and delays, a lack of appropriate antibiotics on Manus Island, and a failure by Australian immigration officials to urgently grant a doctor's request for the young man's transfer to Australia. The Coroner found that the Australian Government had not met its responsibility to provide healthcare comparable to Australian standards.

The Medevac legislation provides a small number of very sick people the medical care they desperately need. Moves to repeal this legislation, as prescribed by the Migration Amendment (Repairing Medical Transfers) Bill 2019, are cause for considerable concern.

The current Medevac legislation allows for seriously ill refugees or people seeking asylum currently held in PNG or Nauru to be transferred to Australia for medical treatment, on the clinical advice of two or more treating doctors, unless the Minister refuses on character or national security grounds.

Prior to the enactment of this legislation on 1 March 2019, a number of refugees had to be transferred to Australia for medical treatment by order of the Australian Federal Court after doctors' recommendations for transfer went unheeded by government officials. St Vincent's Health Australia firmly believes that all medical decisions concerning people held offshore should be in the hands of medical professionals, not politicians or bureaucrats.

St Vincent's Health's experience of pre-Medevac asylum seeker healthcare

As a Catholic healthcare provider, St Vincent's Health Australia is part of the largest single grouping of non-Government health, aged and community care services across the nation. We believe every person should be afforded equal access to appropriate medical care, a key aspect of upholding the inherent preciousness and dignity of each individual.

The Migration Amendment (Repairing Medical Transfers) Bill 2019 proposed by the government would repeal legislation that helps to ensure appropriate medical treatment for extremely vulnerable people. As a healthcare provider, we feel it is incumbent upon us to oppose any repeal of these measures.

St Vincent's Health's facilities have seen first-hand the harmful impact of offshore detention on the health of asylum seekers. It has also experienced the often unworkable and opaque pre-Medevac system which seriously ill asylum seekers were forced to endure before they could receive specialist care in Australia.

Our clinicians describe an Orwellian system with no clear and proper processes to coordinate the provision of health care on the Australian mainland for asylum seekers who needed specialist care unavailable on Manus Island or Nauru.

Most troubling for them was that the decisions and approvals regarding onshore treatment for seriously ill detainees pre-Medevac – which continued once they arrived in Australia – were governed and overseen by administrative staff with no clinical or specialist expertise, not by medical professionals.

The unclear and non-clinical process would result in long treatment delays, often resulting in a severe deterioration in health for the person in question.

When providing input to this submission, St Vincent’s clinicians recounted asylum seekers arriving at the hospital for care with their health in a critical state, often with a range of preventable morbidities, which made diagnosis and appropriate treatment extremely challenging.

Detainee patients would often arrive at hospital without any associated information concerning their health history, including the level of trauma they had experienced, both in terms of persecution in their home country, but also while in offshore detention.

The lack of information – along with the uncertainty that an asylum seeker patient could be removed and sent back to offshore detention without notice – hampered the work of clinical staff, leaving them feeling restrained in some of the care they could provide.

For example, St Vincent’s social workers report being unable to conduct standard psycho-social examinations of patients because, while they suspected such a process would uncover substantial trauma, they felt it would be inappropriate to do so without knowing how long the patients would remain at the hospital – in case it was only days – before being made to return to detention.

Even after arriving in Australia to receive treatment, the feedback from St Vincent’s clinicians is that the inadequacies of the system – particularly the roles played by non-clinical decision-makers – continued to negatively impact on the health of detainees.

Time and again throughout a detainee’s treatment at one of its hospitals, St Vincent’s Health’s medical staff were required to negotiate simple clinical decisions (eg: the transfer of a patient to a bed in a mental health ward, or the discharge of a patient to a community health setting) with immigration officials and office administrators rather than with their specialist, nursing or allied health peers.

This frequent and time-consuming arbitration – which continued right up until, and including, a detainee’s discharge – meant that the hospital’s opportunity to provide patients with early intervention and time-appropriate treatment was often missed, resulting in adverse consequences for the person’s health.

Normally simple and straightforward clinical decisions were made unnecessarily complex and inefficient.

One St Vincent’s specialist compared the fact that Australian medical staff enjoy the freedom and flexibility to make clinical decisions on behalf of Australian prisoners in custody, but not for detainees.

Another factor that impeded the recovery of both detainees as well as other patients in the same facility – while also creating a negative and fearful working environment for St Vincent’s Health’s staff – was the heavy-handed security arrangements put in place by authorities.

For example, St Vincent’s staff catalogue a range of security measures that, from their perspective, were unnecessary:

- Patients weren’t able to go to the toilet with the door shut and had to remain visible by their security detachment, an ongoing source of distress and humiliation.
- Personal belongings were confiscated upon arrival at the hospital.
- In one patient’s bathroom a small window – the size of which a young child would find it difficult to climb through – was deemed an escape risk by security and welded shut. Every time the detainee patient moved rooms (which was necessary over months of care) hospital administrators were required to weld shut the same window in the new bathroom.
- Patients were not allowed to use money. One detainee patient’s only enjoyment was a daily cup of coffee, but this was denied her because she was unable to purchase the drink herself. St Vincent’s staff would put their own money behind the counter of the hospital’s café so the patient could ‘purchase’ her coffee without needing to handle any money.
- With visits to detainees limited to one hour, officially-approved visitors would still encounter delays of up to 20 minutes while security guards contacted other colleagues by phone to verify their status. Other visitors – while officially approved – regularly encountered longer delays or were refused visitation because detention bureaucracy had mislaid the relevant paperwork. Visitors would be left standing outside the detainee’s room, visible to the patient, but unable to meet with them.
- Security guards (each detainee was accompanied at all times by two security personnel) were seen and heard to engage in intimidating behaviour, both physical and verbal, designed to cause distress for detainee patients. For example, some guards would wake seriously ill detainee patients every hour for undisclosed security reasons; on other occasions, guards would inspect a detainee’s food at meal times.

According to St Vincent’s staff, none of the above arrangements were provided to the hospital in writing as part of official protocols, rather they reflected the whims of individual security personnel.

Clinical and allied health staff providing input to this submission said such behaviour had a visible impact on the mental health of detainees.

One St Vincent’s staff member said: “It actually felt like a game. To wear them down, to humiliate them.”

The intimidating presence of security also affected the well-being of other SVHA patients and staff.

For example, when an asylum seeker patient in rehabilitation attended the hospital's gym for a therapy session alongside other patients, the two guards would accompany him or her. Other patients in the gym were visibly reluctant to participate in group therapy activities because of the security presence.

This resulted in detainee patients refusing to participate in group activities because of their humiliation, choosing instead to stay inside their room for days and weeks on end.

One St Vincent's staff member said: "I found them very confronting, to have them on my ward, just to be in my workplace really. I don't work in a prison. They were always big burly men, dressed in security uniforms, sitting directly outside their room, 24/7."

When SVHA's hospitals successfully argued with the authorities that the detainees weren't security threats – which led to the guards finally leaving the facility, under an arrangement where our hospitals agreed to become an 'alternate place of detention' – it resulted in more effective provision of treatment and rehabilitation with the health status of the detainees visibly and quickly improving.

The impact of asylum seekers on Australia's public health system

One of the criticisms of the Medevac law is that by providing asylum seekers with urgent treatment in Australia, Australian citizens will experience treatment delays in the public health system.

Such arguments are unfounded and misunderstand how Australia's public hospital system works.

Firstly, not all asylum seekers in offshore detention who require specialist care in Australia need a hospital bed.

Public hospitals offer a range of services to patients which are tailored to their medical needs. It could be outpatient care, community health care, imaging, etc.

Secondly, when it does come to inpatient admissions, Australia's public health system isn't rigid, it's designed to be flexible. Our hospitals are run in order to have capacity to accommodate extra numbers, or lower numbers, without causing disruption.

The parlance commonly used in health departments to describe how the natural ebb and flow of patients is managed is called 'flexing up and flexing down'.

On the occasions when SVHA's facilities have cared for asylum seekers, treatment was provided without any impact on the hospital's day-to-day patient load. No Australian citizen was displaced or had their treatment delayed.

In fact, the government's own figures⁵ show that 1,246 asylum seekers and refugees have been brought from offshore processing centres to Australia for medical treatment in the five and a half years to February 2019, without causing any upheaval in the health system.

Australia's public hospitals care for tens of thousands of unexpected and uninsured overseas travellers every year – 16,000 in NSW alone⁶ – without displacing our fellow citizens from waiting lists.

On behalf of the ABC, RMIT Melbourne conducted a 'fact check' of the claim⁷ that Australians requiring hospital care would be disadvantaged by providing onshore treatment for detainees, and found the claims to be "baseless".

Conclusion and recommendation

St Vincent's Health Australia has always made the case that Australia's health system can and should care for the needs of asylum seekers in offshore detention on Manus Island and Nauru.

Further, St Vincent's Health believes that the current Medevac system for approving the transfer of seriously ill offshore detainees from Manus Island and Nauru to Australia is a significant improvement on the approach it replaced and should be maintained.

Alongside over 5,000 other Catholic organisations, parishes, schools and individuals which make up the members and supporters of the Catholic Alliance for People Seeking Asylum, St Vincent's Health Australia stands for adequate medical treatment and compassion for people seeking asylum, refugees and migrants who are currently located offshore.

We do so because we believe these people are Australia's responsibility. While they may languish in other countries, morally and ethically we must take responsibility and address our serious obligations to their health and welfare, particularly given their vulnerabilities.

St Vincent's Health Australia recommends that the Migration Amendment (Repairing Medical Transfers) Bill 2019 not be passed.

⁵ Australian Senate Legal and Constitutional Affairs Legislation Committee's Estimates hearing, 18 February 2019.

⁶ The Hon Brad Hazzard, NSW Minister for Health, Mandatory health insurance for overseas visitors media release, 5 September 2018.

⁷ <https://www.abc.net.au/news/2019-03-15/fact-check-dutton-refugees-hospital-beds/10900474>