



Australian Medical Network

# **Proposed World Health Organisation Pandemic Powers**

## **Briefing Paper**

**18 November 2022**

# PROPOSED WORLD HEALTH ORGANISATION POWERS

## BRIEFING PAPER

### *“WHO’s calling the shots? Why we must STOP the WHO”*

*Proposed changes to our international legal obligations mean that Australian public health responses to pandemics and other public health emergencies will be determined by the World Health Organisation (WHO) and related foreign actors, and not by Australia’s democratically elected parliamentarians or doctors.*

## EXECUTIVE SUMMARY

A proposed “Pandemic Treaty”<sup>1</sup> and changes to the International Health Regulations<sup>2</sup> would give the WHO and related entities extensive powers to dictate Australia’s health policy, and must be urgently opposed. The unprecedented threat on national sovereignty, a person’s right to choose their own medical treatment, and the censorship of health professionals which will be required under the treaty, are of particular concern.

## PURPOSE

The purpose of this paper is to promote awareness of proposed changes to our international obligations being driven by the World Health Organisation, which will potentially significantly interfere with Australians’ ability to make our own decisions about our health and health policy.

## CONTEXT

AMN’s briefing paper “We need to talk about censorship” explained how changes to the National Law<sup>3</sup> in Australia will mean that Australian health professionals could be suspended for expressing an opinion on a health matter which is contrary to the position taken by the government of the day.<sup>4</sup>

Now, we see representatives of the Australian government seeking to hand power over to the WHA and WHO, to dictate our health policy.

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<sup>1</sup> [https://apps.who.int/gb/inb/pdf\\_files/inb2/A\\_INB2\\_3-en.pdf](https://apps.who.int/gb/inb/pdf_files/inb2/A_INB2_3-en.pdf)

<sup>2</sup> International Health Regulations (2005), 3rd ed. World Health Organization. <https://apps.who.int/iris/handle/10665/246107>

<sup>3</sup> Health Practitioner Regulation National Law Act 2009 (National Law)

<sup>4</sup> <https://www.australianmedicalnetwork.com/AMN-Media-Release-Proposed-National-Law-Legislative-Gag-on-Doctors-Must-be-Stopped.pdf>  
<https://www.australianmedicalnetwork.com/AMN-National-Law-Proposed-Changes-Briefing-Paper.pdf>

## HOW THE PANDEMIC TREATY WILL CENSOR AUSTRALIAN DOCTORS

Under the proposed treaty, the WHO will decide what is “science and evidence” and what is “misinformation, disinformation and false news”, and there will be no room for dissent.

The proposed treaty includes comprehensive measures to promote “science and evidence” (as defined by the WHO), and to suppress any other view.<sup>5</sup> This includes (but is not limited to) measures to:

- manage public information through social media;
- manage public infodemics<sup>6</sup> through social media;
- conduct regular social media listening in order to identify misinformation; and
- provide global communication that counters misinformation, disinformation and false news.<sup>7</sup>

Under the treaty, Australia would be obliged to insist that doctors’ communications are consistent with the WHO’s messaging. We can therefore expect our regulatory bodies<sup>8</sup> to require doctors and other health professionals to insist that doctors stay “on script” with the WHO’s public messaging.

In taking action against doctors for going off script, the regulatory bodies will conveniently be able to rely on the recent changes to the National Law which have inserted “public confidence in the safety of services delivered” as a paramount consideration.<sup>9</sup> The regulatory bodies are likely to claim that any health professional who expresses a different view is undermining public confidence in the safety of health services.

In summary, what this means is that the World Health Assembly (WHA) and the WHO will be dictating what Australian doctors and health practitioners can and cannot say in their consulting rooms. And a patient’s personal agency and right to choose or not choose a treatment or procedure based on genuine informed consent will have been taken away.

## OTHER CONCERNS ABOUT THE PANDEMIC TREATY

Some of the other serious concerns that have been raised about the treaty<sup>10</sup> are outlined below.

### The treaty is to be legally binding

The proposal is that the treaty will be legally binding. This was agreed by the Intergovernmental Negotiating Body<sup>11</sup> (INB) which is the working party developing recommendations for consideration by the World Health Assembly. Dr Tedros Adhanom Ghebreyesus, WHO’s

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<sup>5</sup> Working draft of pandemic treaty, clause 13. [https://apps.who.int/gb/inb/pdf\\_files/inb2/A\\_INB2\\_3-en.pdf](https://apps.who.int/gb/inb/pdf_files/inb2/A_INB2_3-en.pdf)

<sup>6</sup> No definition of “infodemic” is provided.

<sup>7</sup> Working draft of pandemic treaty, clause 13. [https://apps.who.int/gb/inb/pdf\\_files/inb2/A\\_INB2\\_3-en.pdf](https://apps.who.int/gb/inb/pdf_files/inb2/A_INB2_3-en.pdf)

<sup>8</sup> Including the Australian Health Professionals Regulatory Agency (AHPRA), the NSW Health Care Complaints Commission (HCCC), Queensland’s Health Ombudsman, the Medical Board and other health practitioner boards

<sup>9</sup> Changes to the National Law took effect from 21 October 2022 – see in particular section 3A of the Schedule to the National Law which introduces “confidence in safety” as a paramount guiding principle alongside actual public safety - <https://www.legislation.qld.gov.au/view/html/inforce/current/act-2009-045#sch>. See further AMN’s Briefing Paper and media release: <https://www.australianmedicalnetwork.com/AMN-Media-Release-Proposed-National-Law-Legislative-Gag-on-Doctors-Must-be-Stopped.pdf>

<https://www.australianmedicalnetwork.com/AMN-National-Law-Proposed-Changes-Briefing-Paper.pdf>

<sup>10</sup> See for example <https://worldcouncilforhealth.org/multimedia/dr-astrid-stuckelberger-who-pandemic-treaty/>

<sup>11</sup> <https://inb.who.int/>

Director-General, said “The importance of a legally binding instrument cannot be overstated: it will be our collective legacy for future generations.”<sup>12</sup>

This means other INB members and non-members are making legal decisions about global health policies, and the Australian government is allowing its sovereignty to be undermined, ultimately failing to protect its citizens. Australians are being forced into a global cookie cutter approach to health.

#### Australian representation is absent or secret

A closer examination of INB, the body which is negotiating the treaty, shows that it is comprised of representatives from Brazil (Tovar da Silva Nunes), Egypt (Ahmed Soliman), Japan (Kazuho Taguchi), Netherlands (Roland Driecce), South Africa (Precious Matsoso), and Thailand (Viroj Tangcharoensathien). The two co-chairs of the INB are Roland Driecce (Netherlands) and Precious Matsoso (South Africa).<sup>13</sup>

Australia does not have direct representation on this body. The INB is also influenced by the contributions of non-state actors or other stakeholders who are not members, such as NGOs, private sector entities, philanthropic foundations, and academic institutions.<sup>14</sup>

If Australia is actively involved in contributing to the development of the treaty, details of Australia’s proposed positions should be made public at an early stage – now - to allow for proper debate. Only scant information is available currently.<sup>15</sup> There is also the question of cost to each member country to participate in this process.

#### The treaty undermines Australia’s sovereignty

The language of the draft treaty pays lip service to the sovereignty of member states. But the reality is that if the treaty goes ahead, and Australia does not specifically withdraw from it, Australia will then be obliged to pass domestic legislation to implement it.

Given Australia’s track record of support for the WHO<sup>16</sup>, it can be expected that the Australian government will proceed to pass the necessary domestic legislation in Australia. The upshot is bureaucrats and politicians have voluntarily surrendered agency over our health policy to the WHO.

#### The treaty gives outrageously broad powers to the WHO

The WHO would have power to declare an emergency and dictate nations’ responses to the emergency – not just in relation to health, but in *all* areas, including for example environmental policy and trade.<sup>17</sup>

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<sup>12</sup> <https://www.who.int/news/item/21-07-2022-pandemic-instrument-should-be-legally-binding--inb-meeting-concludes>. See also report of the Second meeting of the intergovernmental negotiating body to draft and negotiate a WHO convention, agreement or other international instrument on pandemic prevention, preparedness and response Geneva, 18–21 July 2022. Report of the meeting A/INB/2/5 21 July 2022 [https://apps.who.int/gb/inb/e/e\\_inb-2.html](https://apps.who.int/gb/inb/e/e_inb-2.html)

<sup>13</sup> <https://healthpolicy-watch.news/future-pandemic-treaty-will-be-legally-binding/>

<sup>14</sup> <https://cdn.who.int/media/docs/default-source/executive-board/eb148-list-of-218-entities.pdf>

<sup>15</sup> <https://www.health.gov.au/initiatives-and-programs/strengthening-global-health-and-international-pandemic-response>

<sup>16</sup> See for example AUSTRALIA–WHO Country Cooperation Strategy 2018–2022

<sup>17</sup> Wenham, C; Eccleston-Turner, M.; Voss, M. The futility of the Pandemic Treaty, *International Affairs* 98: 3 (2022) 837–852; doi: 10.1093/ia/iia023

There would be no need for individual nations to declare a state of emergency – the WHO declaration would be sufficient to trigger extraordinary powers of the WHO to dictate policy in Australia and other member states.

Under a declared emergency, normal judicial processes would be suspended, putting the 194 member states under direct control of the WHO, ostensibly without recourse to the courts, “where all activities of public authorities are brought into line under the lead of the executive through public health ‘emergency measures’ and ruling by executive decrees, suspending the separation of powers and regular democratic legislative processes.”<sup>18</sup>

Australia is already attempting to pave the way for this abrogation of responsibility and power to be handed over to the World Health Organisation. Under [section 477\(1\)\(c\)](#) of the *Biosecurity Act 2015 (Cth)* the Health Minister, MAY in a state of emergency, act on the recommendations made by the World Health Organisation under Part III of the International Health Regulations<sup>19</sup> in relation to the declaration of a listed human disease. By this statute, the Health Minister is given power to make health decisions to prevent or control human disease in the best interest of all Australians. Any decision must be independent of outside influence and not at the direction of the WHO or anyone else. Australians must continue to decide what is best for their health through the Australian Parliament and the laws made by the Parliament.

#### Other potentially significant changes are also proposed

In parallel with the proposed treaty, 14 nations have proposed extensive changes to the existing International Health Regulations (IHR)<sup>20</sup>, the details of which are undisclosed. These proposed amendments are being discussed behind closed doors, despite WHO’s claims to be committed to transparency, and despite the potential significant impact of any changes to the IHR on citizens around the world. If these changes are approved by a majority of member states, they will apply to Australia unless we specifically opt out.

## CONCLUSION

Changes being made to Australia’s National Law will require health professionals to follow the dictates of Australian health bureaucrats. The proposed Pandemic Treaty takes that dictatorial power from Australian health bureaucrats and gives it to the Director General of the WHO.

This means that doctors and other health professionals will be legally required to follow health policy set by the Director General of the WHO. Patients’ rights to choose or not choose a treatment or procedure will also be controlled by WHO.

If Australia is party to the Pandemic Treaty, we will no longer be able to describe ourselves as a representative parliamentary democracy. We will have handed dictatorial power to foreign unelected actors which will be influenced by NGOs, Foundations, and corporations and countries who do not share the same values and adherence to the rule of law that makes Australia that great country it is.

The Pandemic Treaty must be urgently opposed.

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<sup>18</sup> <https://www.ejiltalk.org/why-the-rush-a-call-for-critical-reflection-on-the-legal-and-human-rights-implications-of-a-potential-new-international-treaty-on-pandemics/>

<sup>19</sup> <https://www.who.int/publications/i/item/9789241580496>

<sup>20</sup> International Health Regulations (2005), 3rd ed. World Health Organization. <https://apps.who.int/iris/handle/10665/246107>

## WHAT NEEDS TO HAPPEN

- The Australian government should disclose who is representing Australia at the WHO and publish details of Australia's proposed position with respect to the treaty and any and all proposed amendments to the International Health Regulations, and consult widely before finalising its position.
- If the Pandemic Treaty comes into force, the Australian government must take action to avoid Australia becoming obligated under that treaty.
- The Australian government should give serious consideration to withdrawing from the WHO altogether.
- Everyday Australians need to stand up and demand that health policy is decided in Australia, rather than by foreign unelected bureaucrats.
- Civil society organisations need to raise awareness and garner grass roots opposition to this attack on our democracy.

## RESOURCES

- <https://www.who.int/news-room/questions-and-answers/item/pandemic-prevention--preparedness-and-response-accord>
- <https://jamesroguski.substack.com/p/another-open-letter-to-the-world>  
<https://jamesroguski.substack.com/p/another-open-letter-to-the-world>
- <https://jamesroguski.substack.com/p/did-you-know>

## About AMN

The Australian Medical Network (AMN) uses the power of the network and wider community to overcome Australia's health challenges and supports medical doctors and clinicians to discover new health therapies that provide safe and effective solutions to all Australians. Along with advancing health, we offer medical legal support, medical and health policy research, the latest health-related news, networking and educational events.

Across Australia, AMN has over 10,000 health professionals and private citizens in its network. They include medical practitioners, surgeons, virologists, epidemiologists, critical care specialists, pharmacologists, lawyers, health economists, academics, other health professionals and health management executives. Because of our wide reach and combined education, training, and experience, this makes us highly competent to provide insights and warn Australians that the WHO Pandemic Treaty must be opposed.

## CONTACT DETAILS

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