



Australian Capital Territory

Health Act 1993

A1993-13

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Not all amendments are in force: see last endnote

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Health Act 1993* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 13 April 2011. It also includes any amendment, repeal or expiry affecting the republished law to 13 April 2011.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication includes amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

Penalties

At the republication date, the value of a penalty unit for an offence against this law is \$110 for an individual and \$550 for a corporation (see *Legislation Act 2001*, s 133).



Australian Capital Territory

Health Act 1993

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Australian Capital Territory

Health Act 1993

An Act relating to the provision of health services

Part 1 Preliminary

1 Name of Act

This Act is the *Health Act 1993*.

2 Dictionary

The dictionary at the end of this Act is part of this Act.

Note 1 The dictionary at the end of this Act defines certain terms used in this Act, and includes references (*signpost definitions*) to other terms defined elsewhere in this Act.

For example, the signpost definition '*health facility*—see section 6.' means that the term 'health facility' is defined in that section.

Note 2 A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

3 Notes

A note included in this Act is explanatory and is not part of this Act.

Note See Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

4 Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

Note 1 Criminal Code

The Criminal Code, ch 2 applies to all offences against this Act (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

Note 2 Penalty units

The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

Part 2 Important concepts

5 What is a *health service*?

For this Act, a *health service* is a service provided to someone (the *service user*) for any of the following purposes:

- (a) assessing, recording, maintaining or improving the physical, mental or emotional health, comfort or wellbeing of the service user;
- (b) diagnosing, treating or preventing an illness, disability, disorder or condition of the service user.

6 What is a *health facility*?

- (1) In this Act:

health facility means the following facilities where health services are provided:

- (a) a hospital, including a day hospital;
- (b) a hospice;
- (c) a nursing home;
- (d) a health practitioner's consulting room;
- (e) another facility ordinarily used by the Territory to provide health services;
- (f) any other facility prescribed by regulation for this section.

7 Who is a *health service provider*?

In this Act:

health service provider—

- (a) means a health practitioner or other person who provides a health service; and
- (b) for a health facility, means a health service provider who—
 - (i) provides a health service at the health facility; or
 - (ii) uses the equipment or other facilities of the health facility to provide a health service elsewhere.

Examples of people who may be health service providers

- 1 a chiropractor
- 2 a dentist
- 3 a dental technician
- 4 a dental prosthetist
- 5 a doctor
- 6 a nurse
- 7 an osteopath
- 8 an optometrist
- 9 a pharmacist
- 10 a physiotherapist

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

U 8 What is the *local hospital network*?

Part 3 Health care principles

10 Objectives

In providing health services the Territory must have regard to the following objectives:

- (a) to improve the efficiency, effectiveness and quality of health services;
- (b) to guarantee equitable access to and participation in health services and to ensure that language and cultural differences are not barriers to such access or participation;
- (c) to maintain a strong and viable public hospital system and a full range of community health services;
- (d) to support worker and community participation in the development of policies for the delivery of health services;
- (e) to ensure that the community is aware of the range of health services that is available and that patients have information that is sufficient to enable them to make informed choices;
- (f) to foster disease prevention and primary health care;
- (g) to cooperate with community groups in the provision of health services.

11 Medicare principles and commitments

- (1) The following guidelines govern the delivery of public hospital services to eligible persons in the ACT:

Note The guidelines focus on the provision of public hospital services to eligible persons, but operate in an environment where eligible persons have the right to choose private health care in public and private hospitals supported by private health insurance.

- (a) eligible persons must be given the choice to receive public hospital services free of charge as public patients;

Note 1 Hospital services include in-patient, outpatient, emergency services (including primary care where appropriate) and day patient services consistent with currently acceptable medical and health service standards.

Note 2 At the time of admission to a hospital, or as soon as practicable after that, an eligible person will be required to elect or confirm whether he or she wishes to be treated as a public or private patient.

- (b) access to public hospital services is to be on the basis of clinical need;

Note 1 None of the following factors are to be a determinant of an eligible person's priority for receiving hospital services:

- (a) whether or not an eligible person has health insurance;
- (b) an eligible person's financial status or place of residence;
- (c) whether or not an eligible person intends to elect, or elects, to be treated as a public or private patient.

Note 2 This guideline applies equally to waiting times for elective surgery.

- (c) to the maximum practicable extent, the Territory will ensure the provision of public hospital services equitably to all eligible persons, regardless of their geographical location;

Note 1 This guideline does not require a local hospital to be equipped to provide eligible persons with every hospital service they may need.

Note 2 In rural and remote areas, the Territory should ensure provision of reasonable public access to a basic range of hospital services that are in accord with clinical practices.

- (d) the Commonwealth and the Territory must make available information on the public hospital services eligible persons can expect to receive as public patients;

Note 1 The joint Commonwealth/Territory development of a Public Patients Hospital Charter for the Territory will be a vehicle for the public dissemination of this information.

Note 2 The Charter will set out the public hospital services available to public patients.

- (e) the Commonwealth and the Territory are committed to making improvements in the efficiency, effectiveness and quality of hospital service delivery.

Note This includes a commitment to quality improvement, outcome measurement, management efficiency and effort to integrate the delivery of hospital and other health and community services.

- (2) A word or expression used in the *Medicare Agreements Act 1992* (Cwlth) has the same meaning in subsection (1).

12 Legal effect

Nothing in this part is to be taken to create any legal rights not in existence before the enactment of this part or to affect any legal rights in existence before that enactment or that would, apart from this part, have come into existence after that enactment.

U Part 3A Local Health and Hospitals Network

Part 4 **Quality assurance**

Division 4.1 **Quality assurance—important concepts**

20 **Definitions—pt 4**

In this part:

CEO—

- (a) of a health facility—see section 22; and
- (b) of a health professional organisation—see section 23.

health facility QAC, for a health facility, means a committee approved under section 25 as a quality assurance committee for the health facility.

health professional organisation—see section 21.

health professional organisation QAC, for a health professional organisation, means a committee approved under section 26 as a quality assurance committee for the health professional organisation.

health service report—see section 38.

ministerial report—see section 41.

special purpose QAC means a committee approved under section 27 for a purpose.

Note ***Quality assurance committee*** is defined for the Act in s 24.

21 **What is a *health professional organisation*?**

In this part:

health professional organisation means an entity that—

- (a) is an association, society, college, faculty or other body of professionals who provide a health service; and
- (b) is prescribed by regulation for this section.

22 Who is the *CEO* of a health facility?

In this part:

CEO, of a health facility, means—

- (a) for a health facility operated by the Territory—the chief executive; or
- (b) in any other case—the person with overall responsibility for the control of the health facility.

23 Who is the *CEO* of a health professional organisation?

In this part:

CEO, of a health professional organisation, means the person with overall responsibility for the control of the health professional organisation.

Division 4.2 Quality assurance—quality assurance committees

24 What is a *quality assurance committee*?

In this Act:

quality assurance committee means—

- (a) a health facility QAC; or
- (b) a health professional organisation QAC; or
- (c) a special purpose QAC.

25 Approval of health facility QACs

- (1) The Minister may approve a stated committee as a quality assurance committee for a stated health facility.
- (2) An approval is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

26 Approval of health professional organisation QACs

- (1) The Minister may approve a stated committee as a quality assurance committee for a stated health professional organisation.
- (2) An approval is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

27 Approval of special purpose QACs

- (1) The Minister may approve a stated committee as a quality assurance committee for a stated purpose.
- (2) An approval is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

27A Quality Assurance Committees—term

The Minister may not approve a committee under section 25, section 26 or section 27 for a term longer than 3 years.

28 Quality assurance committees—criteria for approval

The Minister may approve a committee as a quality assurance committee under section 25, section 26 or section 27 only if satisfied that—

- (a) the committee's functions would be facilitated by the members, and other people mentioned in section 34, being protected from liability under section 34 (Quality assurance committees—protection of members etc from liability); and

- (b) it is in the public interest for part 8 (Secrecy) to apply to information held by the committee members.

29 Quality assurance committees—revocation of approval

The Minister may revoke the approval of a committee as a quality assurance committee if—

- (a) the Minister is not satisfied about 1 or both of the criteria mentioned in section 28 in relation to the committee; or
- (b) the committee has failed to prepare a health service report as required under section 38; or
- (c) the committee has failed to give a health service report as required under section 39; or
- (d) the committee has failed to prepare, or give, a ministerial report as required under section 41 (Annual quality assurance committee report to Minister); or
- (e) the committee has failed to prepare a report as required by a regulation made under section 42 (Other quality assurance reports); or
- (f) for the last year, none of the members of the committee has held sensitive information in the exercise of a function under this Act.

Note 1 *Sensitive information* is defined in s 124.

Note 2 Power to make a statutory instrument includes power to amend or repeal the instrument. The power to amend or repeal the instrument is exercisable in the same way, and subject to the same conditions, as the power to make the instrument (see Legislation Act, s 46).

30 Quality assurance committees—functions

A quality assurance committee has the following functions:

- (a) to facilitate the improvement of health services provided in the ACT;

(b) any other function given to the committee under this Act.

31 Quality assurance committees—appointment of members

- (1) The CEO of a health facility must appoint the members of a health facility QAC for the health facility.
- (2) The CEO of a health professional organisation must appoint the members of a health professional organisation QAC for the health professional organisation.
- (3) The chief executive must appoint the members of a special purpose QAC.

Note 1 For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

Note 2 In particular, an appointment may be made by naming a person or nominating the occupant of a position (see Legislation Act, s 207).

Note 3 A person may be reappointed to a position if the person is eligible to be appointed to the position (see Legislation Act, s 208 and dict, pt 1, def *appoint*).

32 Quality assurance committees—disclosure of interests

- (1) Section 190 (Disclosure of interests by committee members) applies to quality assurance committees.
- (2) If a person acting under the direction of a quality assurance committee has a material interest in an issue being considered, or about to be considered, by the committee, the person must disclose the nature of the interest at a committee meeting as soon as practicable after the relevant facts come to the person's knowledge.
- (3) In this section:

material interest—see section 190 (4).

33 Quality assurance committees—procedure

In exercising its functions, a quality assurance committee—

- (a) must comply with the rules of natural justice; and
- (b) is not bound by the rules of evidence but may inform itself of anything in the way it considers appropriate; and
- (c) may do whatever it considers necessary or convenient for the fair and prompt conduct of its functions.

34 Quality assurance committees—protection of members etc from liability

(1) In this section:

relevant person, for a quality assurance committee—

- (a) means a person who is, or has been, a member of the committee; and
- (b) includes anyone engaging in conduct under the direction of a person who is a member of the committee.

(2) A relevant person for a quality assurance committee is not personally liable for anything done or omitted to be done honestly and without recklessness—

- (a) in the exercise of a function under this Act; or
- (b) in the reasonable belief that the act or omission was in the exercise of a function under this Act.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

- (3) Any civil liability that would, apart from this section, attach to a relevant person for a quality assurance committee attaches instead to—
- (a) if the committee is a health facility QAC for a health facility—the health facility; or
 - (b) if the committee is a health professional organisation QAC for a health professional organisation—the health professional organisation; or
 - (c) if the committee is a special purpose QAC—the Territory.

35 Quality assurance committees—obtaining information

- (1) A quality assurance committee carrying out a function under this Act may ask anyone to give the committee information, including protected information, that is relevant to the committee carrying out the function.

Note The identity of a person who gives information to a committee under this section is protected (see pt 8).

- (2) When asking anyone for information, the committee must tell the person that giving false or misleading information is an offence against the Criminal Code, section 338 (Giving false or misleading information).
- (3) If someone gives information honestly and without recklessness to a quality assurance committee under subsection (1)—
- (a) the giving of the information is not—
 - (i) a breach of confidence; or
 - (ii) a breach of professional etiquette or ethics; or
 - (iii) a breach of a rule of professional conduct; and
 - (b) the person does not incur civil or criminal liability only because of the giving of the information.

Division 4.3 Assessment and evaluation of health services

36 Assessment and evaluation of health services

- (1) A health facility QAC for a health facility may assess and evaluate health services provided by health service providers for the health facility by carrying out a quality assurance activity with the health service providers.
- (2) A health professional organisation QAC for a health professional organisation may assess and evaluate health services provided by health service providers who are members of a health professional organisation by carrying out a quality assurance activity with the health service providers.
- (3) A special purpose QAC may, for a purpose for which it was approved, assess and evaluate health services provided by health service providers for any health facility by carrying out a quality assurance activity with the health service providers.

- (4) In this section:

quality assurance activity means an activity approved as a quality assurance activity under section 37.

37 Approval of quality assurance activities

- (1) The Minister may approve an activity as a quality assurance activity if satisfied that the activity is designed to evaluate, monitor or improve the quality of a health service.
- (2) An approval is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

Examples of activities designed to evaluate, monitor or improve the quality of a health service

- 1 clinical audits
- 2 records audits

- 3 peer review
- 4 quality review
- 5 investigation into disease and death.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

38 Preparing health service reports

- (1) This section applies to a quality assurance committee if it completes an assessment and evaluation under section 36.
- (2) The quality assurance committee must prepare a report (a *health service report*) about the assessment and evaluation.

Note The report must be prepared as soon as possible (see Legislation Act, s 151B).

- (3) The health service report must include the following:
 - (a) details of the health services assessed and evaluated;
 - (b) the results of the assessment and evaluation;
 - (c) the committee's conclusions;
 - (d) the committee's recommendations (if any).

38A Extraordinary reports

- (1) This section applies if—
 - (a) a quality assurance committee is assessing and evaluating health services under section 36; and
 - (b) the quality assurance committee becomes aware of something that is sufficiently serious to require urgent action to prevent or limit any adverse effect it might have on the health service.
- (2) The quality assurance committee must report the thing to the chief executive as soon as possible, even if the committee has not completed the assessment and evaluation.

- (3) Subsection (2) applies even if the thing is not related to the quality assurance activity the committee is carrying out.
- (4) A report under subsection (2) must be in writing and may include sensitive information.

Note **Sensitive information**—see s 124.

38B Interim reports

- (1) The chief executive may ask a quality assurance committee to prepare a report on its activities before it completes an assessment and evaluation under section 36.
- (2) A report prepared in response to a request under subsection (1) must include the following:
 - (a) details of the health services that are being assessed and evaluated;
 - (b) details of how the assessment and evaluation is progressing;
 - (c) details of any conclusions the committee may have reached;
 - (d) the committee's recommendations (if any).
- (3) A report under subsection (1) must be in writing and may include sensitive information.

Note **Sensitive information**—see s 124.

39 Giving health service reports to CEO or chief executive

- (1) This section applies to a quality assurance committee if it prepares a health service report.
- (2) The quality assurance committee must give a copy of the report to—
 - (a) if the committee is a health facility QAC for a health facility—the CEO of the health facility; or

- (b) if the committee is a health professional organisation QAC for a health professional organisation—the CEO of the health professional organisation; or
- (c) if the committee is a special purpose QAC—the chief executive.

Note The report must be given as soon as possible (see Legislation Act, s 151B).

40 Monitoring implementation of recommendations

If a quality assurance committee makes a recommendation in a health service report, the committee may monitor the implementation of the recommendation.

Division 4.4 Quality assurance committees—reporting

41 Annual quality assurance committee report to Minister

- (1) A quality assurance committee must, for each financial year, prepare a report (a *ministerial report*) about the committee's operation during the year.
- (2) The ministerial report must include information for the financial year about—
 - (a) the committee's functions under division 4.3 (Assessment and evaluation of health services); and
 - (b) how the committee's functions were facilitated by the members, and other people mentioned in section 34, being protected from liability under section 34 (Quality assurance committees—protection of members etc from liability); and
 - (c) why it was in the public interest for part 8 (Secrecy) to apply to information held by the committee members.

(3) The ministerial report must comply with any requirements prescribed by regulation for this section.

(4) The ministerial report must not include sensitive information.

Note *Sensitive information* is defined in s 124.

(5) The ministerial report must be given to the Minister not later than 3 months after the end of the financial year.

42 Other quality assurance committee reports

(1) A quality assurance committee must prepare a report prescribed by regulation for this section.

(2) The report must include the following information about the operation of the committee—

(a) how the committee's functions were facilitated by the members, and other people mentioned in section 34, being protected from liability under section 34 (Quality assurance committees—protection of members etc from liability); and

(b) why it was in the public interest for part 8 (Secrecy) to apply to information held by the committee members.

(3) The report must not include sensitive information.

Note *Sensitive information* is defined in s 124.

Division 4.5 Quality assurance committees— information sharing

43 Quality assurance committees—giving information to the Coroner’s Court

A quality assurance committee may give protected information to the Coroner’s Court if the committee is satisfied that giving the information would be likely to facilitate the improvement of health services provided in the ACT.

Note Protected information includes sensitive information (see s 123).

44 Quality assurance committees—giving information to other quality assurance committees

A quality assurance committee may give protected information to another quality assurance committee if the committee is satisfied that giving the information would be likely to facilitate the improvement of health services provided in the ACT.

Note Protected information includes sensitive information (see s 123).

45 Quality assurance committees—giving information to health board and health services commissioner

- (1) A quality assurance committee may give protected information to a health board if the committee is satisfied that giving the information would be likely to facilitate the improvement of health services provided in the ACT.
- (2) If a quality assurance committee gives protected information to a health board under subsection (1), the committee must also give the information to the health services commissioner.

Note Protected information includes sensitive information (see s 123).

46 Quality assurance committees—giving information to Minister

A quality assurance committee may give protected information to the Minister if the committee is satisfied that giving the information would be likely to facilitate the improvement of health services provided in the ACT.

Note Protected information includes sensitive information (see s 123).

47 Quality assurance committees—admissibility of evidence

- (1) The following are not admissible as evidence in a proceeding before a court:
- (a) an oral statement made in a proceeding before a quality assurance committee;
 - (b) a document given to a quality assurance committee, but only to the extent that it was prepared only for the committee;
 - (c) a document prepared by a quality assurance committee.
- (2) In this section:

court includes a tribunal, authority or person with power to require the production of documents or the answering of questions.

Part 5 Reviewing scope of clinical practice

50 Definitions—pt 5

In this part:

CEO, of a health facility—see section 53.

dentist, for a health facility—see section 52.

doctor, for a health facility—see section 52.

hospital includes a day hospital.

review, in relation to scope of clinical practice—see section 55.

scope of clinical practice, of a doctor or dentist for a health facility—see section 54.

scope of clinical practice executive decision notice—see section 70.

scope of clinical practice report—see section 67.

Note *Scope of clinical practice committee* is defined for the Act in s 51.

51 What is a *scope of clinical practice committee*?

In this Act:

scope of clinical practice committee means a committee approved under section 56 as a scope of clinical practice committee.

52 Who is a *doctor or dentist* for a health facility?

In this Act:

dentist, for a health facility, means a dentist who—

- (a) provides health services at the health facility; or

- (b) uses the equipment or other facilities of the health facility to provide health services elsewhere.

doctor, for a health facility, means a doctor who—

- (a) provides health services at the health facility; or
- (b) uses the equipment or other facilities of the health facility to provide health services elsewhere.

53 Who is the *CEO* of a health facility?

In this part:

CEO, of a health facility, means—

- (a) for a health facility operated by the Territory—the chief executive; or
- (b) in any other case—the person with overall responsibility for the control of the health facility.

54 What is *scope of clinical practice*?

In this part:

scope of clinical practice, of a doctor or dentist for a health facility, means the rights of the doctor or dentist established by agreement between the doctor or dentist and the health facility—

- (a) to treat patients or carry out other procedures at the health facility; or
- (b) to use the equipment or other facilities of the health facility.

55 Meaning of *review scope of clinical practice*

In this part:

review, in relation to the scope of clinical practice, includes assess and evaluate the scope of clinical practice.

56 Approval of scope of clinical practice committees

- (1) The Minister may approve a committee as a scope of clinical practice committee in accordance with section 57.
- (2) An approval is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

57 Scope of clinical practice committees—criteria for approval

The Minister may approve a committee as a scope of clinical practice committee under section 56 only if satisfied that—

- (a) the committee's functions would be facilitated by the members, and other people mentioned in section 63, being protected from liability under section 63 (Scope of clinical practice committees—protection of members etc from liability); and
- (b) it is in the public interest for part 8 (Secrecy) to apply to information held by the committee members.

58 Scope of clinical practice committees—revocation of approval

The Minister may revoke the approval of a committee as a scope of clinical practice committee if the Minister is not satisfied about 1 or both of the criteria mentioned in section 57 in relation to the committee.

Note Power to make a statutory instrument includes power to amend or repeal the instrument. The power to amend or repeal the instrument is exercisable in the same way, and subject to the same conditions, as the power to make the instrument (see Legislation Act, s 46).

59 Scope of clinical practice committees—functions

- (1) A scope of clinical practice committee has the following functions:
 - (a) to decide—
 - (i) whether to credential a doctor or dentist for a health facility; and
 - (ii) the terms on which a doctor or dentist is credentialled;
 - (b) to define, and review, the scope of clinical practice of a doctor or dentist credentialled for a health facility;
 - (c) to review the scope of clinical practice of a doctor or dentist if the CEO of a health facility refers the doctor or dentist's scope of clinical practice to the committee under section 69 (5);
 - (d) to immediately withdraw or amend the scope of clinical practice of a doctor or dentist credentialled for a health facility in accordance with this Act;
 - (e) any other function given to the committee under this Act.
- (2) A reference in this section to credentialling a doctor or dentist includes re-credentialling the doctor or dentist.
- (3) A scope of clinical practice committee must, as far as practicable, exercise its functions under subsection (1) (a), (b) and (c) in accordance with the Standard.
- (4) In this section:

credential, in relation to a doctor or dentist, means endorse the doctor or dentist (the ***practitioner***) to provide health services based on verification and assessment of the practitioner's qualifications, experience, skill, professional standing and any other relevant professional attributes.

Standard means the Australian Council for Safety and Quality in Health Care, Standard for Credentialling and Defining the Scope of Clinical Practice, published in July 2004.

60 Scope of clinical practice committees—appointment of members

The chief executive must appoint the members of a scope of clinical practice committee.

Note 1 For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

Note 2 In particular, an appointment may be made by naming a person or nominating the occupant of a position (see Legislation Act, s 207).

Note 3 A person may be reappointed to a position if the person is eligible to be appointed to the position (see Legislation Act, s 208 and dict, pt 1, def *appoint*).

61 Scope of clinical practice committees—disclosure of interests

- (1) Section 190 (Disclosure of interests by committee members) applies to scope of clinical practice committees.
- (2) If a person acting under the direction of a scope of clinical practice committee has a material interest in an issue being considered, or about to be considered, by the committee, the person must disclose the nature of the interest at a committee meeting as soon as practicable after the relevant facts come to the person's knowledge.
- (3) In this section:
material interest—see section 190 (4).

62 Scope of clinical practice committees—procedure

- (1) In exercising its functions, a scope of clinical practice committee—
 - (a) must comply with the rules of natural justice; and
 - (b) is not bound by the rules of evidence but may inform itself of anything in the way it considers appropriate; and
 - (c) may do whatever it considers necessary or convenient for the fair and prompt conduct of its functions.

- (2) A scope of clinical practice committee may, by resolution, determine the procedures for carrying out its functions.

63 Scope of clinical practice committees—protection of members etc from liability

- (1) A relevant person for a scope of clinical practice committee is not personally liable for anything done or omitted to be done honestly and without recklessness—
- (a) in the exercise of a function under this Act; or
 - (b) in the reasonable belief that the act or omission was in the exercise of a function under this Act.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

- (2) Any civil liability that would, apart from this section, attach to a relevant person for a scope of clinical practice committee attaches instead to the Territory.
- (3) In this section:
- relevant person***, for a scope of clinical practice committee—
- (a) means a person who is, or has been, a member of the committee; and
 - (b) includes anyone engaging in conduct under the direction of a person who is a member of the committee.

64 Scope of clinical practice committees—obtaining information

- (1) A scope of clinical practice committee carrying out a function under this Act may ask anyone to give the committee information, including protected information, that is relevant to the committee carrying out the function.

Note The identity of a person who gives information to a committee under this section is protected (see pt 8).

- (2) When asking anyone for information, the committee must tell the person that giving false or misleading information is an offence against the Criminal Code, section 338 (Giving false or misleading information).
- (3) If someone gives information honestly and without recklessness to a scope of clinical practice committee under subsection (1)—
- (a) the giving of the information is not—
 - (i) a breach of confidence; or
 - (ii) a breach of professional etiquette or ethics; or
 - (iii) a breach of a rule of professional conduct; and
 - (b) the person does not incur civil or criminal liability only because of giving the information.

65 Scope of clinical practice committee must give doctor or dentist opportunity to explain

- (1) This section applies to a scope of clinical practice committee if—
- (a) the committee is reviewing the scope of clinical practice of a doctor or dentist for a health facility; and

- (b) the committee proposes to recommend in a scope of clinical practice report that—
 - (i) the scope of clinical practice of the doctor or dentist should be amended or withdrawn; or
 - (ii) the terms of engagement of the doctor or dentist by the health facility should be amended; or
 - (iii) the engagement of the doctor or dentist by the health facility should be suspended or ended.

Note Scope of clinical practice reports are prepared under s 67.

- (2) The committee must give the doctor or dentist a written notice (a *recommendation notice*) stating—
 - (a) the committee’s proposed recommendation; and
 - (b) the reasons for the committee’s proposed recommendation; and
 - (c) that the doctor or dentist may, not later than 21 days after the day the recommendation notice is given to the doctor or dentist, make a submission to the committee about the proposed recommendation.
- (3) A recommendation notice must not include sensitive information.

Note *Sensitive information*—see s 124.

- (4) The committee must consider any submission made by the doctor or dentist to the committee in accordance with the notice.

66 Interim and emergency withdrawal or amendment of scope of clinical practice by committee

- (1) If at any time a scope of clinical practice committee forms the view that the clinical practice of a doctor or dentist at a health facility poses a threat to the safety of members of the public, the committee may withdraw or amend the scope of clinical practice of the doctor or dentist with immediate effect.

- (2) The scope of clinical practice committee may take action under subsection (1) before the completion of a review by the committee of the doctor or dentist's scope of clinical practice under section 65.
- (3) Any withdrawal or amendment under this section has effect until a decision of the CEO of a health facility on the scope of clinical practice report in relation to the doctor or dentist takes effect under section 71 (When CEO decision on scope of clinical practice report takes effect).
- (4) If a scope of clinical practice committee withdraws or amends the scope of clinical practice of a doctor or dentist under subsection (1), the committee must tell the chief executive and the chief executive officer, Calvary (the *executive officers*) of the committee's decision and the date of the decision, in writing, as soon as possible.
- (5) If an executive officer is told about the withdrawal or amendment of the scope of clinical practice of a doctor or dentist under this section, the executive officer must tell appropriate officers under their authority or direction of the committee's decision so that proper effect can be given to the decision.

Examples—appropriate officers

- general manager of the health facility
- clinical unit director
- head of department at health facility
- immediate supervisor of doctor or dentist
- human resource personnel

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

67 Preparing scope of clinical practice reports

- (1) This section applies to a scope of clinical practice committee if—
 - (a) the committee has reviewed the scope of clinical practice of a doctor or dentist for a health facility; and

- (b) if the committee has given the doctor or dentist a recommendation notice—the committee has considered any submission made by the doctor or dentist in accordance with the notice; and
 - (c) the committee has completed the review.
- (2) The scope of clinical practice committee must prepare a report (a *scope of clinical practice report*) about the review.
- Note* The report must be prepared as soon as possible (see Legislation Act, s 151B).
- (3) The scope of clinical practice report must include the committee's recommendations about whether—
- (a) the scope of clinical practice of the doctor or dentist should stay the same, be amended or be withdrawn; and
 - (b) the terms of engagement of the doctor or dentist by the health facility should be amended; and
 - (c) the engagement of the doctor or dentist by the health facility should be suspended or ended.
- (4) In this section:
- recommendation notice*—see section 65 (2).

68 Giving scope of clinical practice reports to CEO of health facility and doctor or dentist

If a scope of clinical practice committee prepares a scope of clinical practice report about a doctor or dentist for a health facility, the committee must give a copy of the report to—

- (a) the CEO of the health facility; and
- (b) the doctor or dentist.

Note The report must be given as soon as possible (see Legislation Act, s 151B).

69 CEO may make interim or emergency decision on scope of clinical practice

- (1) If the CEO of a health facility has concerns about a doctor or dentist for a health facility of sufficient seriousness to warrant the immediate amendment or withdrawal of the scope of clinical practice of the doctor or dentist, the CEO may, by notice in writing, amend or withdraw the scope of clinical practice of the doctor or dentist with immediate effect.
- (2) The CEO may take action under subsection (1) even if a scope of clinical practice committee has not reported on, or is not currently investigating, the scope of clinical practice of the doctor or dentist.
- (3) Any amendment or withdrawal of the scope of clinical practice of a doctor or dentist under this section has effect from the day and time the notice is given to the doctor or dentist—
 - (a) if a scope of clinical practice report is prepared under section 67 in relation to the doctor or dentist—until a decision on the scope of clinical practice report takes effect under section 71; or
 - (b) in any other case—until the CEO, by notice in writing, revokes the amendment or withdrawal.
- (4) Subsection (5) applies if—
 - (a) the CEO amends or withdraws the scope of clinical practice of a doctor or dentist under subsection (1); and
 - (b) the scope of clinical practice of the doctor or dentist is not the subject of an investigation by a scope of clinical practice committee.
- (5) The CEO must immediately refer the scope of clinical practice of the doctor or dentist to a scope of clinical practice committee.

- (6) If the CEO amends or withdraws the scope of clinical practice of a doctor or dentist under subsection (1), the CEO must, in writing, notify—
- (a) the doctor or dentist; and
 - (b) if the CEO is not the chief executive—the chief executive; and
 - (c) if the CEO is not the chief executive officer, Calvary—the chief executive officer, Calvary; and
 - (d) the relevant health board for the doctor or dentist; and
 - (e) the health services commissioner; and
 - (f) the CEO of any other health facility at which the doctor or dentist is engaged; and
 - (g) if a scope of clinical practice committee submitted a report about the doctor or dentist under section 68 to the CEO—the scope of clinical practice committee that submitted the report; and
 - (h) all appropriate officers under the CEO’s authority or direction of the committee’s decision so that proper effect can be given to the decision.

Examples—appropriate officers

- general manager of the health facility
- clinical unit director
- head of department at health facility
- immediate supervisor of doctor or dentist
- human resource personnel

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

70 CEO must make decision on scope of clinical practice report

- (1) This section applies if the CEO of a health facility is given a scope of clinical practice report about a doctor or dentist for the health facility.
- (2) The CEO must—
 - (a) consider the recommendations in the scope of clinical practice report; and
 - (b) decide whether to take—
 - (i) the action recommended in the scope of clinical practice report; or
 - (ii) any other action that the committee could have recommended under section 67 (3) that the CEO considers appropriate.

Note 1 The CEO must consider the recommendations and make a decision as soon as possible (see Legislation Act, s 151B).

Note 2 A decision of the CEO under this section is a reviewable decision (see pt 9).

- (3) After the CEO has made a decision under subsection (2), the CEO must give the following people notice in writing (a ***scope of clinical practice executive decision notice***) of the decision:
 - (a) each doctor or dentist for the health facility whose scope of clinical practice or engagement will be affected by the CEO's decision;
 - (b) the scope of clinical practice committee that prepared the scope of clinical practice report;

- (c) all appropriate officers under the CEO's authority or direction so that proper effect can be given to the decision.

Examples—appropriate officers

- general manager of the health facility
- clinical unit director
- head of department at health facility
- immediate supervisor of doctor or dentist
- human resource personnel

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (4) A scope of clinical practice executive decision notice in relation to a doctor or dentist must include the following information:
- (a) if the doctor or dentist's scope of clinical practice is to stay the same—a statement to that effect;
 - (b) if the doctor or dentist's scope of clinical practice is to be amended—how the scope of clinical practice is being amended;
 - (c) if the doctor or dentist's scope of clinical practice is to be withdrawn—a statement to that effect;
 - (d) if the term of engagement of the doctor or dentist by a health facility is to be amended—how the term is being amended;
 - (e) if the engagement of the doctor or dentist by a health facility is to be suspended—the period for which the engagement is being suspended;
 - (f) if the engagement of the doctor or dentist by a health facility is to be ended—a statement to that effect;
 - (g) if the doctor or dentist was the subject of a decision of the CEO under section 69—a statement to that effect;
 - (h) when the decision takes effect.

- (5) The scope of clinical practice review notice must be in accordance with the requirements for a reviewable decision notice.

Note The requirements for reviewable decision notices are prescribed under the *ACT Civil and Administrative Tribunal Act 2008*.

71 When CEO decision on scope of clinical practice report takes effect

- (1) A decision of the CEO of a health facility under section 69 or section 70 in relation to a doctor or dentist for the health facility takes effect on the later of the following:
- (a) the day stated in the scope of clinical practice review notice for the decision;
 - (b) the day the scope of clinical practice review notice is given to the doctor or dentist.
- (2) For subsection (1) (b), if the notice cannot be given to the doctor or dentist in person, the notice is taken to be given to the doctor or dentist 7 days after the day it is posted to his or her last known home address.

72 CEO may give information about decision to health facility outside ACT

- (1) If the CEO of a health facility makes a decision under section 69 or section 70 to amend or withdraw the scope of clinical practice of a doctor or dentist, the CEO may tell the CEO of a health facility that is outside the ACT (the *other CEO*) about the amendment or withdrawal.
- (2) However, the CEO may not tell the other CEO about the amendment or withdrawal, unless the other CEO asks, in writing, for information about the scope of clinical practice of the doctor or dentist.

73 Request for information by health facility outside ACT

- (1) This section applies if a health facility outside the ACT (the *requesting facility*) asks the CEO of a health facility for clinical practice information about a doctor or dentist that has been the subject of a scope of clinical practice review at the health facility.
- (2) The CEO must—
 - (a) if the request for information is in writing—forward the request within 7 days of receiving it to the scope of clinical practice committee that reviewed the doctor or dentist’s scope of clinical practice; or
 - (b) if the request is not in writing—tell the requesting facility as soon as practicable that the request must be made in writing.
- (3) A scope of clinical practice review committee that receives a request from a CEO under subsection (2) (a) may give the requesting facility—
 - (a) the following information if the information formed part of the committee’s review of the doctor or dentist, and is relevant to the information asked for by the requesting facility:
 - (i) particulars of the complaint against the doctor or dentist;
 - (ii) particulars about any patients treated by the doctor or dentist;
 - (iii) health facility medical records;
 - (iv) reports from other providers of health services; and
 - (b) a summary of the committee’s review report into the doctor or dentist’s scope of clinical practice.
- (4) However, any information given to a requesting facility under subsection (3) must be given in a form that does not allow a person mentioned in the information, other than the doctor or dentist reviewed by the committee, to be identified.

- (5) In this section:

clinical practice information, about a doctor or dentist, means information relating to the clinical competency and standards of professional conduct of the doctor or dentist.

74 Scope of clinical practice committees—giving information to health board and health services commissioner

- (1) A scope of clinical practice committee may give protected information to a health board if the committee is satisfied that giving the information would be likely to facilitate the improvement of health services provided in the ACT.

Note Protected information includes sensitive information (see s 123).

- (2) If a clinical practice committee gives protected information to a health board under subsection (1), the committee must give the information to the health services commissioner.
- (3) A scope of clinical practice committee must tell the relevant health board, and the health services commissioner, if the committee is satisfied that the clinical practice of a doctor or dentist has failed to meet the required standard of practice, or that the doctor or dentist does not satisfy the suitability to practise requirements.

- (4) In this section:

required standard of practice—see the *Health Professionals Act 2004*, section 18.

Note The *Health Practitioner Regulation National Law (ACT)*, pt 8, div 2 imposes an obligation to report misconduct or impairment.

75 Scope of clinical practice committees—admissibility of evidence

- (1) The following are not admissible as evidence in a proceeding before a court:
 - (a) an oral statement made in a proceeding before a scope of clinical practice committee;
 - (b) a document given to a scope of clinical practice committee, but only to the extent that it was prepared only for the committee;
 - (c) a document prepared by a scope of clinical practice committee.
- (2) In this section:

court includes a tribunal, authority or person with power to require the production of documents or the answering of questions.

76 Sharing information with other committees

A scope of clinical practice committee may share the following information, including protected information, with another scope of clinical practice committee or a quality assurance committee:

- (a) any information that comes before the committee in the course of its functions;
- (b) a decision of a CEO under section 69 or section 70 that related to a recommendation made by the committee.

77 Sharing information with 3rd parties

- (1) This section applies if—
 - (a) the CEO of a health facility makes a decision, under section 69 or section 70, to amend or withdraw the scope of clinical practice of a doctor or dentist; and
 - (b) a person asks for information about the decision.

- (2) The CEO may give the person information about the decision, but may not disclose the identity of the doctor or dentist or any other sensitive information.

Note *Sensitive information*—see s 124.

78 **Complainants to remain anonymous**

If a person makes a complaint about a doctor or dentist and the matter is referred to a scope of clinical practice committee, the committee—

- (a) must not disclose the identity of the complainant to the doctor, dentist or any other person who is not a member of the committee; and
- (b) if the committee provides any information to a person about a complaint—may provide information in a way that protects the identity of the complainant unless required to do otherwise by this Act or any other Territory law.

Part 6 Abortions

80 Meaning of *abortion* for pt 6

In this part:

abortion means causing a woman's miscarriage by:

- (a) administering a drug; or
- (b) using an instrument; or
- (c) any other means.

81 Only doctor may carry out abortion

A person who is not a doctor must not carry out an abortion.

Maximum penalty: imprisonment for 5 years.

82 Abortion to be carried out in approved medical facility

A person must not carry out an abortion except in a medical facility, or part of a medical facility, approved under section 83 (1).

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

83 Approval of facilities

- (1) If a medical facility is suitable on medical grounds for carrying out abortions, the Minister may approve the medical facility or an appropriate part of the medical facility.

- (2) An approval is a notifiable instrument.

Note A notifiable instrument must be notified under the *Legislation Act 2001*.

- (3) The Minister must not unreasonably refuse or delay a request for approval of a medical facility under subsection (1).

84 No obligation to carry out abortion

- (1) No-one is under a duty (by contract or by statutory or other legal requirement) to carry out or assist in carrying out an abortion.
- (2) A person is entitled to refuse to assist in carrying out an abortion.

Part 7 VMO service contracts

100 Definitions for pt 7

In this part:

authorised representative means an entity authorised as a representative under section 105.

core conditions means conditions determined under section 102.

entity means a corporation or an unincorporated association.

negotiating agent means an entity approved as a negotiating agent under section 104.

negotiating period—see section 103 (2).

practice corporation, of a VMO, means a corporation that is controlled or conducted by the VMO and by which the VMO conducts his or her practice as a doctor or dentist.

service contract means a contract for services, between the Territory and a VMO (or the VMO's practice corporation), under which the VMO is to provide health services to or for the Territory.

VMO (visiting medical officer) means a doctor or dentist who is engaged, or who the Territory proposes to engage, under a service contract.

101 Service contracts

- (1) The Territory must not enter into a service contract unless it includes the core conditions that apply to the contract.
- (2) A service contract entered into in contravention of subsection (1) is void.

- (3) A condition of a service contract that is inconsistent with a core condition that applies to the contract is void to the extent of the inconsistency.

102 Core conditions

- (1) The Minister may determine core conditions for service contracts.
- (2) The Minister must not determine a condition as a core condition unless the condition has been—
 - (a) agreed in collective negotiations under section 103; or
 - (b) decided by arbitration under section 106.
- (3) A determination of core conditions is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

103 Collective negotiations

- (1) The Territory may negotiate with a negotiating agent, or negotiating agents, to establish proposed core conditions for service contracts.
- (2) Before beginning collective negotiations, the Minister must determine a period (the *negotiating period*) for the negotiations.
- (3) A negotiating period determined after 31 December 2003 must not be shorter than 3 months unless the parties to the negotiations agree to a shorter negotiating period.
- (4) A determination of a negotiating period is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

104 Negotiating agents

- (1) The Minister may, in writing, approve an entity as a negotiating agent.
- (2) The Minister must not approve an entity as a negotiating agent unless the Minister is satisfied that—
 - (a) the entity is the authorised representative of at least 50 VMOs who, between them, belong to at least 3 of the following categories:
 - (i) physician;
 - (ii) surgeon;
 - (iii) obstetrician and gynaecologist;
 - (iv) anaesthetist;
 - (v) general practitioner or other doctor or dentist; and
 - (b) the entity is not disqualified under subsection (3); and
 - (c) the entity is otherwise suitable to be a negotiating agent having regard to anything that may reasonably influence that decision, including the following:
 - (i) any criminal or civil court proceedings in which the entity or an executive officer of the entity has been concerned in the previous 10 years;
 - (ii) any levy of execution against the entity or an executive officer of the entity that is not satisfied;
 - (iii) whether an executive officer of the entity has ceased to carry on business, or has been involved in the management of an entity that has ceased to carry on business, with the result that creditors were not fully paid or are unlikely to be fully paid.

- (3) For subsection (2) (b), an entity is disqualified if—
- (a) the entity, or an executive officer of the entity, has been convicted, in the ACT or elsewhere, of—
 - (i) an offence punishable by imprisonment for longer than 1 year; or
 - (ii) an offence that involves dishonesty and is punishable by imprisonment for 3 months or longer; or
 - (b) the entity has a receiver, receiver and manager, or provisional liquidator appointed over part or all of its affairs, or is otherwise under external administration; or
 - (c) the entity is insolvent, enters into voluntary administration or makes an arrangement with its creditors or takes the benefit of any law for the relief of insolvent debtors; or
 - (d) the executive officer of the entity is disqualified from managing corporations under the Corporations Act, part 2D.6 (Disqualification from managing corporations).

- (4) In this section:

executive officer, of an entity, means a person, by whatever name called, and whether or not the person is a director of the entity, who is concerned with or takes part in the management of the entity.

105 Authorised representatives

- (1) A VMO may, in writing, authorise 1 entity to represent the VMO in collective negotiations under section 103.

Note If a form is approved under s 194 for an authorisation, the form must be used.

- (2) The authorisation must nominate 1 of the categories mentioned in section 104 (2) (a) as the category to which the VMO belongs.

106 Arbitration

- (1) This section applies if agreement is not reached in collective negotiations between the Territory and a negotiating agent or negotiating agents in relation to a matter before the end of the negotiating period.
- (2) Unless resolved by mediation beforehand, the matter must be decided by arbitration.
- (3) The arbitration must be conducted under the *Commercial Arbitration Act 1986* and in accordance with principles and rules determined by the Minister.
- (4) That Act applies to the arbitration as if the determined principles and rules were an arbitration agreement between the Territory and the negotiating agent or negotiating agents.
- (5) The principles and rules—
 - (a) must be determined by the Minister having regard to the objective of improving the efficiency, effectiveness and quality of health services, and other public interest considerations; and
 - (b) must include a requirement that the arbitrator has appropriate experience, including in determining industrial awards; and
 - (c) must be fair and reasonable.
- (6) A determination of principles and rules for arbitration is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

107 Competition and Consumer Act authorisation

For the *Competition and Consumer Act 2010* (Cwlth) and the Competition Code of the ACT, the following are authorised:

- (a) collective negotiations between the Territory and an approved negotiating agent, or approved negotiating agents, under this part;
- (b) the conditions agreed in those negotiations;
- (c) service contracts containing core conditions;
- (d) everything done under a service contract.

Part 8 Secrecy

120 Definitions—pt 8

In this part:

divulge—see section 121.

information holder—see section 122.

protected information—see section 123.

Note *Sensitive information* is defined for the Act in s 124.

121 When is information *divulged*?

In this part:

divulge includes communicate.

122 Who is an *information holder*?

For this part, a person is an *information holder* if—

- (a) the person is or has been—
 - (i) a member of a quality assurance committee; or
 - (ii) a member of a scope of clinical practice committee; or
 - (iii) someone else exercising a function under part 4 (Quality assurance) or part 5 (Reviewing scope of clinical practice); or
 - (iv) someone else engaged in the administration of part 4 (Quality assurance) or part 5 (Reviewing scope of clinical practice); or

- (b) the person has been given information under this Act by a person mentioned in paragraph (a).

Note Information may be given to people under various provisions of pt 4 and pt 5, including:

- s 39 (Giving health service reports to CEO or chief executive)
- s 43 (Quality assurance committees—giving information to the Coroner’s Court)
- s 44 (Quality assurance committees—giving information to other quality assurance committees)
- s 45 (Quality assurance committees—giving information to health board and health services commissioner).
- s 74 (Scope of clinical practice committees—giving information to health board and health services commissioner).

123 What is *protected information*?

- (1) For this part, information is *protected information* about a person if it is information about the person that is disclosed to, or obtained by, an information holder because of the exercise of a function under this Act by the information holder or someone else.
- (2) Without limiting subsection (1), *protected information* includes sensitive information.

124 What is *sensitive information*?

In this Act:

sensitive information means information that—

- (a) identifies a person who—
- (i) has received a health service; or
 - (ii) is a health service provider; or
 - (iii) has provided information to a quality assurance committee under section 35 (Quality assurance

committees—obtaining information) or otherwise in the course of the committee carrying out the committee's functions under this Act; or

- (iv) has provided information to a scope of clinical practice committee under section 64 (Scope of clinical practice committees—obtaining information) or otherwise in the course of the committee carrying out the committee's functions under this Act; or

(b) would allow the identity of the person to be worked out.

125 Offence—secrecy of protected information

(1) An information holder commits an offence if—

(a) the information holder—

- (i) makes a record of protected information about someone else; and
- (ii) is reckless about whether the information is protected information about someone else; or

(b) the information holder—

- (i) does something that divulges protected information about someone else; and
- (ii) is reckless about whether—
 - (A) the information is protected information about someone else; and
 - (B) doing the thing would result in the information being divulged to another person.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) This section does not apply to the making of a record or the divulging of information if the record is made or the information divulged—
- (a) under this Act; or
 - (b) in the exercise of a function, as an information holder, under this Act.
- (3) This section does not apply to the making of a record or the divulging of information if—
- (a) the protected information is not sensitive information; and
 - (b) the record is made or the information divulged—
 - (i) under another territory law; or
 - (ii) in the exercise of a function, as an information holder, under another territory law.
- (4) This section does not apply to the divulging of protected information about someone with the person’s agreement.
- (5) An information holder must not divulge protected information to a court, or produce a document containing protected information to a court, unless it is necessary to do so for this Act.

Note A quality assurance committee may give protected information to the Coroner’s Court (see s 43).

- (6) In this section:
- court*** includes a tribunal, authority or person with power to require the production of documents or the answering of questions.
- produce*** includes allow access to.

126 Information may be given to Medicare Australia

- (1) The CEO of a health facility may give protected information about a health service provided by a health service provider for the health facility to—
- (a) Medicare Australia; or
 - (b) the auditor-general.

Note Protected information includes sensitive information (see s 123).

- (2) However, the CEO must not give the information unless—
- (a) the CEO is satisfied that the giving of the information will help the prevention or detection of fraud; and
 - (b) the Minister agrees, in writing, to the giving of the information.

- (3) In this section:

CEO, of a health facility—see section 22.

Medicare Australia—see the *Medicare Australia Act 1973* (Cwlth).

Part 8A Offence—provision of health services by non-health practitioners

127 Provision of regulated health service by person not health practitioner

- (1) A person commits an offence if—
- (a) the person intentionally provides a regulated health service; and
 - (b) the person is not a health practitioner.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

Example—someone providing a regulated health service to someone in the ACT when not a health practitioner

A person (*Dr W*) provides a medical service by a video link from an island in the south Pacific to Mary Smith in the ACT. Dr W advises Mary that she needs to have her tonsils removed. Dr W is not a health practitioner. Dr W contravenes this subsection.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) This section does not apply to—
- (a) a health service provided in an emergency; or
 - (b) the provision, by mail order, or over the internet or by other electronic means, of manufactured aids to rehabilitation or surgical prosthetics and orthotics; or

- (c) a health service ordinarily provided in the ordinary course of business by people other than health practitioners.

Example—par (b)

dental restorative or corrective devices

- (3) In this section:

regulated health service means a health service ordinarily provided by a health practitioner.

Part 9 Pharmacists and pharmacy premises

128 Meaning of *community pharmacy*—pt 9

In this part:

community pharmacy—see the *Medicines, Poisons and Therapeutic Goods Act 2008*, dictionary.

128A Complying pharmacy corporation

A corporation is a *complying pharmacy corporation* if the corporation—

- (a) has a constitution that provides that—
 - (i) the object of the corporation is to practise as a pharmacist; and
 - (ii) only an individual who is a pharmacist may be a director; and
 - (iii) a director cannot be a director of another incorporated pharmacist without the written consent of the board; and
 - (iv) all voting rights exercisable at a general meeting of the corporation are exercisable only by or on behalf of pharmacists who are directors or employees of the corporation; and
 - (v) a shareholder in the corporation must be either a pharmacist or a close relative of a shareholder; and
- (b) has a constitution that ensures that each share in the corporation is beneficially owned by—
 - (i) a pharmacist who is a director or employee of the corporation; or

- (ii) a close relative of a person mentioned in subparagraph (i);
and
- (c) for a corporation that is to practise pharmacy as a trustee—is only a party to a trust deed that relates to the corporation’s practice as a pharmacist if—
 - (i) the deed provides that all beneficiaries are to be pharmacists who are directors or employees of the corporation or close relatives of the pharmacists; and
 - (ii) the proposed trust deed has been approved in writing by the national board; and
- (d) has a constitution that is appropriate to a corporation formed to practise as a pharmacist.

128B Standard of premises

- (1) To protect the public, premises where a pharmacist operates a community pharmacy must—
 - (a) be under the direct, personal control of a pharmacist; and
 - (b) have direct access, or through access, to the premises; and
 - (c) comply with standards approved under subsection (2).

(2) The Minister may approve standards about premises for community pharmacies for subsection (1) (c).

(3) An approved standard is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

(4) A pharmacist must comply with any standard approved under this section.

(5) In this section:

through access, to premises, means access to the premises through the public area of a shopping centre, mall, plaza or health centre.

129 Restriction on pharmacy premises—supermarkets

- (1) A person commits an offence if the person operates a community pharmacy inside, or partly inside, premises being used as a supermarket.

Maximum penalty: 200 penalty units, imprisonment for 2 years or both.

- (2) A pharmacist commits an offence if the pharmacist practises as a pharmacist in a community pharmacy inside, or partly inside, premises being used as a supermarket.

Maximum penalty: 200 penalty units, imprisonment for 2 years or both.

- (3) In this section:

supermarket means a large shop selling food and other household items where the selection of goods is organised on a self-serve basis.

Note This definition is the same as the definition of *supermarket* in the territory plan.

M 129A Ownership of pharmacy business

Part 10 Review of decisions

130 Review of decisions

A doctor, or dentist, for a health facility may apply to the ACAT for review of a decision of the CEO of the health facility under section 69—

- (a) to amend or withdraw the scope of clinical practice of the doctor or dentist; or
- (b) to amend the terms of engagement of the doctor or dentist; or
- (c) to suspend or end the engagement of the doctor or dentist.

131 Pt 9 obligations—no contracting out

To remove any doubt, this part applies in relation to a doctor, or dentist, for a health facility despite anything to the contrary in a term of the doctor's or dentist's engagement.

Part 15 Miscellaneous

189 Protection of doctor or dentist from liability in emergency

- (1) A doctor or dentist for a health facility does not incur personal civil liability for an act done or omission made that falls outside the doctor or dentist's scope of clinical practice at the health facility if done or made honestly and without recklessness to assist, or give advice about the assistance to be given to, a person who is apparently—
 - (a) injured or at risk of being injured; or
 - (b) in need of emergency medical assistance.
- (2) However, the protection does not apply if—
 - (a) there is in force a professional indemnity insurance arrangement that covers the liability; or
 - (b) the doctor or dentist's capacity to exercise appropriate care and skill was, at the relevant time, significantly impaired by a recreational drug.
- (3) In this section:
recreational drug means a drug consumed voluntarily for non-medicinal purposes, and includes alcohol.

190 Disclosure of interests by committee members

- (1) If a member of a committee to which this section applies has a material interest in an issue being considered, or about to be considered, by the committee, the member must disclose the nature of the interest at a committee meeting as soon as practicable after the relevant facts come to the member's knowledge.

Note 1 This section applies to the council (see s 19E), a quality assurance committee (see s 32) and a scope of clinical practice committee (see s 61).

Note 2 **Material interest** is defined in s (4). The definition of **indirect interest** in s (4) applies to the definition of **material interest**.

- (2) The disclosure must be recorded in the committee's minutes and, unless the committee otherwise decides, the member must not—
- (a) be present when the committee considers the issue; or
 - (b) take part in a decision of the committee on the issue.

Example

Adam, Ben and Charlotte are members of a quality assurance committee. They have an interest in an issue being considered at a committee meeting and they disclose the interest as soon as they become aware of it. Adam's and Ben's interests are minor but Charlotte has a direct financial interest in the issue.

The committee considers the disclosures and decides that because of the nature of the interests:

- Adam may be present when the committee considers the issue but not take part in the decision
- Ben may be present for the consideration and take part in the decision.

The committee does not make a decision allowing Charlotte to be present or take part in the committee's decision. Accordingly, since Charlotte has a material interest she cannot be present for the consideration of the issue or take part in the decision.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

(3) Any other committee member who also has a material interest in the issue must not be present when the committee is considering its decision under subsection (2).

(4) In this section:

associate, of a person, means—

- (a) the person's business partner; or
- (b) a close friend of the person; or
- (c) a family member of the person.

executive officer, of a corporation, means a person (however described) who is concerned with, or takes part in, the corporation's management, whether or not the person is a director of the corporation.

indirect interest—without limiting the kinds of indirect interests a person may have, a person has an **indirect interest** in an issue if any of the following has an interest in the issue:

- (a) an associate of the person;
- (b) a corporation if the corporation has not more than 100 members and the person, or an associate of the person, is a member of the corporation;
- (c) a subsidiary of a corporation mentioned in paragraph (b);
- (d) a corporation if the person, or an associate of the person, is an executive officer of the corporation;
- (e) the trustee of a trust if the person, or an associate of the person, is a beneficiary of the trust;
- (f) a member of a firm or partnership if the person, or an associate of the person, is a member of the firm or partnership;

- (g) someone else carrying on a business if the person, or an associate of the person, has a direct or indirect right to participate in the profits of the business.

material interest—a committee member has a **material interest** in an issue if the member has—

- (a) a direct or indirect financial interest in the issue; or
- (b) a direct or indirect interest of any other kind if the interest could conflict with the proper exercise of the member's functions in relation to the committee's consideration of the issue.

191 References to Health and Community Care Service

- (1) In any Act, instrument made under an Act, contract or other document, a reference to the **Health and Community Care Service** is, for the application of that Act, instrument, contract or other document after the commencement of this section, a reference to the Territory.
- (2) In this section:

Health and Community Care Service means the Australian Capital Territory Health and Community Care Service established by the *Health and Community Care Services Act 1996* (repealed).

192 Determination of fees

- (1) The Minister may determine fees for this Act.
- Note* The Legislation Act contains provisions about the making of determinations and regulations relating to fees (see pt 6.3)
- (2) Without limiting subsection (1), the Minister may determine fees in relation to the provision of health and community care services.
- (3) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

- (4) A determination may adopt a Commonwealth law or a health benefits agreement (or a provision of a Commonwealth law or health benefits agreement) as in force from time to time.

Note 1 The text of an applied, adopted or incorporated law or instrument, whether applied as in force from time to time or at a particular time, is taken to be a notifiable instrument if the operation of the Legislation Act, s 47 (5) or (6) is not disallowed (see s 47 (7)).

Note 2 A notifiable instrument must be notified under the Legislation Act.

- (5) In this section:

Commonwealth law means a Commonwealth Act, or any regulations, rules, ordinance or disallowable instrument under a Commonwealth Act.

disallowable instrument, for a Commonwealth Act, means a disallowable instrument under the *Acts Interpretation Act 1901* (Cwlth), section 46A.

health benefits agreement means an agreement between the Territory and an entity that provides health benefits to contributors of a health benefits fund conducted by the entity.

193 Payment of fees and interest

- (1) A fee is payable to the Territory on or before the payment date.
- (2) If an amount for a fee remains unpaid after the payment date, in addition to that amount, interest calculated on the aggregate amount at the rate determined by the Minister is payable to the Territory in relation to every month or part of a month that the aggregate amount remains unpaid.
- (3) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

- (4) In this section:

aggregate amount, for a month, means the total of—

- (a) the amount of the fee; and
- (b) the amount of interest;

remaining unpaid at the end of the previous month.

payment date, for a fee, means the 28th day after the day when the account for the fee was issued.

194 Approved forms

- (1) The Minister may approve forms for this Act.
- (2) If the Minister approves a form for a particular purpose, the form must be used for that purpose.

Note For other provisions about forms, see Legislation Act, s 255.

- (3) An approved form is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

195 Regulations about nurse practitioners

- (1) The regulations may make provision in relation to nurse practitioner positions and the scopes of practice for nurse practitioner positions.
- (2) In this section:

nurse practitioner position means a position approved under the regulations as a nurse practitioner position.

position means a position (however described) in the public or private sector, whether or not the occupant is an employee.

scope of practice, for a nurse practitioner position, means the manner in which the nurse practitioner who occupies the position may practise as a nurse practitioner, including, for example, the aspects of practice that the nurse practitioner may perform as a nurse practitioner.

Examples for def *scope of practice*

- 1 prescribing particular medication
- 2 referring patients to other health care professionals
- 3 ordering particular diagnostic investigations

Note An example is part of the regulations, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

196 Regulation-making power

The Executive may make regulations for this Act.

Note Regulations must be notified, and presented to the Legislative Assembly, under the Legislation Act.

Part 22 Transitional—Health Amendment Act 2011

255 Definitions—pt 22

In this part:

clinical privileges committee means a stated committee approved as a clinical privileges committee by the Minister under section 56 (Approval of clinical privileges committees) as in force immediately before the commencement day.

commencement day means the day the *Health Amendment Act 2011*, section 9 commences.

256 Transitional—quality assurance committee already appointed

If a quality assurance committee was approved under section 25, section 26 or section 27, as in force immediately before the *Health Amendment Act 2011*, section 6 commences, the approval expires 3 years after the commencement day.

257 Transitional—clinical privileges—review not begun

- (1) This section applies if, before the commencement day—
 - (a) a clinical privileges committee has decided to review the clinical privileges of a doctor or dentist for a health facility; and
 - (b) the committee has not begun the review.
- (2) The decision of the clinical privileges committee to review the clinical privileges of the doctor or dentist is taken to be a decision of a scope of clinical practice committee to review the scope of clinical practice of the doctor or dentist under section 59 (1) (b) (Scope of clinical practice committees—functions).

258 Transitional—clinical privileges—review begun

- (1) This section applies if, before the commencement day—
 - (a) a clinical privileges committee has decided to review the clinical privileges of a doctor or dentist for a health facility; and
 - (b) the committee has begun the review.
- (2) The Act, as in force immediately before the commencement day, continues to apply to the following:
 - (a) the review, and any reporting and information sharing requirements that apply to the committee after the completion of the review;

Note Pt 5, as in force immediately before the commencement day, required the committee to report to the CEO of the health facility, and prevented the committee giving information to a health board unless the information facilitated the improvement of health services in the ACT.
 - (b) the requirement for the CEO of the health facility to make a decision on a report of the committee;
 - (c) the decision of the CEO on the report.

259 Transitional—clinical privileges committees—admissibility of evidence

Section 75 (Clinical privileges committees—admissibility of evidence), as in force immediately before the commencement day, continues to apply.

260 Expiry—pt 22

This part expires 1 year after the commencement day.

Dictionary

(see s 2)

Note 1 The Legislation Act contains definitions and other provisions relevant to this Act.

Note 2 For example, the Legislation Act, dict, pt 1 defines the following terms:

- ACAT
- Act
- ACT
- appoint
- chief executive (see s 163)
- Commonwealth
- Coroner's Court
- entity
- exercise
- function
- health practitioner
- in relation to
- interest
- make
- pharmacist
- proceeding
- sitting day
- territory authority
- territory law
- the Territory
- tribunal.

abortion, for part 6 (Abortions)—see section 80.

authorised representative, for part 7 (VMO service contracts)—see section 100.

CEO—

- (a) of a health facility, for part 4 (Quality assurance)—see section 22; and
- (b) of a health professional organisation, for part 4 (Quality assurance)—see section 23; and
- (c) of a health facility, for part 5 (Reviewing scope of clinical practice)—see section 53.

chief executive officer, Calvary means the person engaged to exercise the functions of the position of chief executive officer (however described) of Calvary Health Care ACT Limited (Public Division) under the rules of Calvary Health Care ACT Limited.

community pharmacy, for part 9 (Pharmacists and pharmacy premises)—see section 128.

core conditions, for part 7 (VMO service contracts)—see section 100.

council means the Local Hospital Network Council established under section 13.

day hospital means a facility where a person is admitted for surgical or medical treatment and discharged on the same day.

dentist, for a health facility, for part 5 (Reviewing scope of clinical practice)—see section 52.

divulge, for part 8 (Secrecy)—see section 121.

doctor, for a health facility, for part 5 (Reviewing scope of clinical practice)—see section 52.

engage in conduct means—

- (a) do an act; or
- (b) omit to do an act.

entity, for part 7 (VMO service contracts)—see section 100.

health board means—

- (a) a national board under the *Health Practitioner Regulation National Law (ACT)*; or
- (b) a health profession board under the *Health Professionals Act 2004*.

health facility—see section 6.

health facility QAC, for a health facility, for part 4 (Quality assurance)—see section 20.

health professional organisation, for part 4 (Quality assurance)—see section 21.

health professional organisation QAC, for a health professional organisation, for part 4 (Quality assurance)—see section 20.

health service—see section 5.

health service provider—see section 7.

health service report, for part 4 (Quality assurance)—see section 38.

hospital, for part 5 (Reviewing scope of clinical practice)—see section 50.

information holder, for part 8 (Secrecy)—see section 122.

local hospital network—see section 8.

ministerial report, for part 4 (Quality assurance)—section 41.

negotiating agent, for part 7 (VMO service contracts)—see section 100.

negotiating period, for part 7 (VMO service contracts)—see section 103 (2).

practice corporation, for part 7 (VMO service contracts)—see section 100.

protected information—see section 123.

quality assurance committee—see section 24.

review, in relation to the scope of clinical practice, for part 5 (Reviewing scope of clinical practice)—see section 55.

scope of clinical practice, of a doctor or dentist, for a health facility, for part 5 (Reviewing scope of clinical practice)—see section 54.

scope of clinical practice committee—see section 51.

scope of clinical practice executive decision notice, for part 5 (Reviewing scope of clinical practice)—see section 70.

scope of clinical practice report, for part 5 (Reviewing scope of clinical practice)—see section 67.

sensitive information—see section 124.

service contract, for part 7 (VMO service contracts)—see section 100.

special purpose QAC, for part 4 (Quality assurance), for a purpose stated in the approval—see section 20.

VMO, or visiting medical officer, for part 7 (VMO service contracts)—see section 100.

Endnotes

1 About the endnotes

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

2 Abbreviation key

A = Act	NI = Notifiable instrument
AF = Approved form	o = order
am = amended	om = omitted/repealed
amdt = amendment	ord = ordinance
AR = Assembly resolution	orig = original
ch = chapter	par = paragraph/subparagraph
CN = Commencement notice	pres = present
def = definition	prev = previous
DI = Disallowable instrument	(prev...) = previously
dict = dictionary	pt = part
disallowed = disallowed by the Legislative Assembly	r = rule/subrule
div = division	reloc = relocated
exp = expires/expired	renum = renumbered
Gaz = gazette	R[X] = Republication No
hdg = heading	RI = reissue
IA = Interpretation Act 1967	s = section/subsection
ins = inserted/added	sch = schedule
LA = Legislation Act 2001	sdiv = subdivision
LR = legislation register	SL = Subordinate law
LRA = Legislation (Republication) Act 1996	sub = substituted
mod = modified/modification	<u>underlining</u> = whole or part not commenced or to be expired

3 Legislation history

Health Act 1993 No 13

notified 1 March 1993 (Gaz 1993 No S23)
commenced 1 March 1993 (s 2)

as amended by

Health (Amendment) Act 1994 No 23

notified 20 May 1994 (Gaz 1994 No S87)
commenced 20 May 1994 (s 2)

Public Sector Management (Consequential and Transitional Provisions) Act 1994 No 38 sch 1 pt 44

notified 30 June 1994 (Gaz 1994 No S121)
s 1, s 2 commenced 30 June 1994 (s 2 (1))
sch 1 pt 44 commenced 1 July 1994 (s 2 (2) and Gaz 1994 No S142)

Administrative Appeals (Consequential Amendments) Act 1994 No 60 sch 1

notified 11 October 1994 (Gaz 1994 No S197)
s 1, s 2 commenced 11 October 1994 (s 2 (1))
sch 1 commenced 14 November 1994 (s 2 (2) and see Gaz 1994 No S250)

Health and Community Care Services (Consequential Provisions) Act 1996 No 35 sch

notified 1 July 1996 (Gaz 1996 No S130)
commenced 1 July 1996 (s 2)

Health (Amendment) Act 1998 No 50

notified 16 November 1998 (Gaz 1998 No S205)
commenced 16 November 1998 (s 2)

Statute Law Revision (Penalties) Act 1998 No 54 sch

notified 27 November 1998 (Gaz 1998 No S207)
s 1, s 2 commenced 27 November 1998 (s 2 (1))
sch commenced 9 December 1998 (s 2 (2) and Gaz 1998 No 49)

Endnotes

3 Legislation history

Legislation (Consequential Amendments) Act 2001 No 44 pt 175

notified 26 July 2001 (Gaz 2001 No 30)
s 1, s 2 commenced 26 July 2001 (IA s 10B)
pt 175 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

Statute Law Amendment Act 2001 (No 2) 2001 No 56 pt 1.3

notified 5 September 2001 (Gaz 2001 No S65)
s 1, s 2 commenced 5 September 2001 (IA s 10B)
amdts 1.3-1.8, 1.10-1.13, 1.15, 1.16, 1.17, 1.35 commenced
12 September 2001 (s 2 (2))
pt 1.3 remainder commenced 5 September 2001 (s 2 (1))

Health and Community Care Services (Repeal and Consequential Amendments) Act 2002 No 47 pt 1.2

notified LR 20 December 2002
s 1, s 2 commenced 20 December 2002 (LA s 75 (1))
pt 1.2 commenced 31 December 2002 (s 2)

Statute Law Amendment Act 2003 A2003-41 sch 1 pt 1.1

notified LR 11 September 2003
s 1, s 2 commenced 11 September 2003 (LA s 75 (1))
sch 1 pt 1.1 commenced 9 October 2003 (s 2 (1))

Health Amendment Act 2003 A2003-43

notified LR 29 September 2003
s 1, s 2 commenced 29 September 2003 (LA s 75 (1))
remainder commenced 30 September 2003 (s 2)

Nurse Practitioners Legislation Amendment Act 2004 A2004-10 pt 2

notified LR 19 March 2004
s 1, s 2 commenced 19 March 2004 (LA s 75 (1))
pt 2 commenced 27 May 2004 (s 2 and CN2004-9)

**Health Professionals Legislation Amendment Act 2004 A2004-39
sch 1 pt 1.3**

notified LR 8 July 2004
s 1, s 2 commenced 8 July 2004 (LA s 75 (1))
sch 1 pt 1.3 commenced 7 July 2005 (s 2 and see Health Professionals
Act 2004 A2004-38, s 2 and CN2005-11)

Health Legislation Amendment Act 2005 A2005-28 amdt 1.70

notified LR 6 July 2005
s 1, s 2 commenced 6 July 2005 (LA s 75 (1))
amdt 1.70 commenced 7 July 2005 (s 2)

Criminal Code Harmonisation Act 2005 A2005-54 sch 1 pt 1.24

notified LR 27 October 2005
s 1, s 2 commenced 27 October 2005 (LA s 75 (1))
sch 1 pt 1.24 commenced 24 November 2005 (s 2)

Statute Law Amendment Act 2005 (No 2) A2005-62 sch 3 pt 3.10

notified LR 21 December 2005
s 1, s 2 commenced 21 December 2005 (LA s 75 (1))
sch 3 pt 3.10 commenced 11 January 2006 (s 2 (1))

Health Legislation Amendment Act 2006 A2006-27 pt 2, sch 1

notified LR 14 June 2006
s 1, s 2 commenced 14 June 2006 (LA s 75 (1))
pt 2, sch 1 commenced 14 December 2006 (s 2 and LA s 79)

Health Legislation Amendment Act 2006 (No 2) A2006-46 sch 2 pt 2.8

notified LR 17 November 2006
s 1, s 2 commenced 17 November 2006 (LA s 75 (1))
sch 2 pt 2.8 commenced 18 November 2006 (s 2 (2))

Statute Law Amendment Act 2007 (No 2) A2007-16 sch 3 pt 3.18

notified LR 20 June 2007
s 1, s 2 taken to have commenced 12 April 2007 (LA s 75 (2))
sch 3 pt 3.18 commenced 11 July 2007 (s 2 (1))

**Medicines, Poisons and Therapeutic Goods Act 2008 A2008-26
sch 2 pt 2.12**

notified LR 14 August 2008
s 1, s 2 commenced 14 August 2008 (LA s 75 (1))
sch 2 pt 2.12 commenced 14 February 2009 (s 2 and LA s 79)

**ACT Civil and Administrative Tribunal Legislation Amendment
Act 2008 (No 2) A2008-37 sch 1 pt 1.53**

notified LR 4 September 2008
s 1, s 2 commenced 4 September 2008 (LA s 75 (1))
sch 1 pt 1.53 commenced 2 February 2009 (s 2 (1) and see ACT Civil
and Administrative Tribunal Act 2008 A2008-35, s 2 (1) and CN2009-2)

Endnotes

4 Amendment history

Health Practitioner Regulation National Law (ACT) Act 2010 A2010-10 sch 2 pt 2.7

notified LR 31 March 2010
s 1, s 2 commenced 31 March 2010 (LA s 75 (1))
sch 2 pt 2.7 commenced 1 July 2010 (s 2 (1) (a))

as modified by

Health Practitioner Regulation National Law (ACT) (Transitional Provisions) Regulation 2010 (No 2) SL2010-39 s 3 and sch 1

notified LR 11 October 2010
s 1, s 2 commenced 11 October 2010 (LA s 75 (1))
s 3 and sch 1 commenced 12 October 2010 (s 2)

as amended by

Fair Trading (Australian Consumer Law) Amendment Act 2010 A2010-54 sch 3 pt 3.11

notified LR 16 December 2010
s 1, s 2 commenced 16 December 2010 (LA s 75 (1))
sch 3 pt 3.11 commenced 1 January 2011 (s 2 (1))

Statute Law Amendment Act 2011 A2011-3 sch 3 pt 3.22

notified LR 22 February 2011
s 1, s 2 commenced 22 February 2011 (LA s 75 (1))
sch 3 pt 3.22 commenced 1 March 2011 (s 2)

Health Amendment Act 2011 A2011-11

notified LR 12 April 2011
s 1, s 2 commenced 12 April 2011 (LA s 75 (1))
s 4, s 5 commences 1 July 2011 (s 2 (2))
remainder commenced 13 April 2011 (s 2 (1))

4 Amendment history

Long title

long title sub 1998 No 50 s 4
am 2002 No 47 amdt 1.10

Name of Act

s 1 sub 2001 No 56 amdt 1.3

Dictionary

s 2 om 2001 No 44 amdt 1.2022
ins 2001 No 56 amdt 1.3
am A2006-27 s 4; A2010-10 amdt 2.27

Notes

s 3 defs reloc to dict 2001 No 56 amdt 1.6
sub 2001 No 56 amdt 1.7

Declaration of quality assurance activity

s 3A renum as s 4

Offences against Act—application of Criminal Code etc

s 4 **orig s 4**
renum as s 5 and then s 10
prev s 4
(prev s 3A) ins 2001 No 56 amdt 1.8
renum as s 4 R4 LA (see 2001 No 56 amdt 1.36)
om A2006-27 s 5
pres s 4
(prev s 3A) ins A2005-54 amdt 1.167
renum as s 4 A2006-27 amdt 1.1

Important concepts

pt 2 hdg **orig pt 2 hdg**
renum as pt 3 hdg
pres pt 2 hdg
ins A2006-27 s 5

What is a *health service*?

s 5 **orig s 5**
renum as s 6 and then s 11
prev s 5
renum as s 10
pres s 5
ins A2006-27 s 5

What is a *health facility*?

s 6 **orig s 6**
renum as s 7 and then s 12
prev s 6
renum as s 11
pres s 6
ins A2006-27 s 5
am A2010-10 amdt 2.28

Endnotes

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Who is a health service provider?

s 7 **orig s 7**
 renum as s 8
 prev s 7
 renum as s 12
 pres s 7
 ins A2006-27 s 5
 am A2010-10 amdt 2.29

Appointment of members

s 7A renum as s 9

What is the local hospital network?

s 8 hdg (prev s 7 hdg) sub 2001 No 56 amdt 1.10
s 8 (prev s 7) am 1994 No 38 sch 1 pt 44; 1996 No 35 sch; 2001
 No 56 amdts 1.10-1.12
 renum as s 8 R4 LA (see 2001 No 56 amdt 1.36)
 am 2002 No 47 amdt 1.12, amdt 1.13
 om A2006-27 s 6
 ins A2011-11 s 4

Disclosure of interest

s 8A renum as s 11

Appointment of members

s 9 (prev s 7A) ins 2001 No 56 amdt 1.13
 renum as s 9 R4 LA (see 2001 No 56 amdt 1.36)
 om A2006-27 s 6

Health care principles

pt 3 hdg **orig pt 3 hdg**
 sub 1998 No 50 s 6
 om A2006-27 s 6
 pres pt 3 hdg
 (prev pt 2 hdg) renum as pt 3 hdg A2006-27 amdt 1.2

General

div 3.1 hdg (prev pt 3 div 1 hdg) renum R4 LA (see 2001 No 56 amdt 1.36)
 om A2006-27 s 6

Confidentiality and evidentiary matters

div 3.2 hdg (prev pt 3 div 2 hdg) renum R4 LA (see 2001 No 56 amdt 1.36)
 om A2006-27 s 6

Objectives

s 10 **orig s 10**
 renum as s 13
 prev s 10
 (prev s 8) am 1998 No 50 s 7
 renum as s 10 R4 LA (see 2001 No 56 amdt 1.36)
 om A2006-27 s 6

pres s 10

(prev s 4) am 1996 No 35 sch
 renum as s 5 R4 LA (see 2001 No 56 amdt 1.36)
 am 2002 No 47 amdt 1.11
 renum as s 10 A2006-27 amdt 1.3
 am A2011-3 amdt 3.220

Medicare principles and commitments

s 11

orig s 11

renum as s 14

prev s 11

(prev s 8A) ins 1998 No 50 s 8
 renum as s 11 R4 LA (see 2001 No 56 amdt 1.36)
 om A2006-27 s 6

pres s 11

(prev s 5) am 1994 No 23 s 4; 2001 No 56 amdt 1.9
 renum as s 6 R4 LA (see 2001 No 56 amdt 1.36)
 renum as s 11 A2006-27 amdt 1.3

Legal effect

s 12

orig s 12

renum as s 15

prev s 12

(prev s 9) am 1998 No 50 s 9; 2001 No 56 amdts 1.14-1.17
 renum as s 12 R4 LA (see 2001 No 56 amdt 1.36)
 am A2003-41 amdt 1.1
 om A2006-27 s 6

pres s 12

(prev s 6) renum as s 7 R4 LA (see 2001 No 56 amdt 1.36)
 renum as s 12 A2006-27 amdt 1.3

Local Health and Hospitals Networkpt 3A hdg**orig pt 3A hdg**

renum as pt 4 hdg

pres pt 3A hdg

ins A2011-11 s 5

Establishment, functions and members of Local Hospital Network Councildiv 3A.1 hdgins A2011-11 s 5**Local Hospital Network Council**

s 13

(prev s 10) am 1998 No 50 s 10; 1998 No 54 sch
 renum as s 13 R4 LA (see 2001 No 56 amdt 1.36)
 sub A2005-54 amdt 1.168
 om A2006-27 s 6
ins A2011-11 s 5

Protection of people assisting committee

s 13AA

renum as s 17

Endnotes

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Definitions for pt 4

s 13AB renum as s 18

Committee to be approved

s 13AC renum as s 19

Procedure and conduct of matters

s 13AD renum as s 20

Disclosure of interest

s 13AE renum as s 21

Nondisclosure of identity

s 13AF renum as s 22

Admissibility of evidence

s 13AG renum as s 23

Members not compellable

s 13AH renum as s 24

Protection of members

s 13AI renum as s 25

Protection of people assisting committee

s 13AJ renum as s 26

Interpretation for pt 5

s 13A renum as s 27

Functions of council

s 14 (prev s 11) sub 1998 No 50 s 11
renum as s 14 R4 LA (see 2001 No 56 amdt 1.36)
om A2006-27 s 6
ins A2011-11 s 5

Council report to Minister etc

s 15 hdg (prev s 12 hdg) sub A2003-41 amdt 1.1
s 15 (prev s 12) am 1998 No 50 s 12
renum as s 15 R4 LA (see 2001 No 56 amdt 1.36)
om A2006-27 s 6
ins A2011-11 s 5

Membership of council

s 16 (prev s 13) am 1996 No 35 sch; 1998 No 50 s 13; 2001 No 56
amds 1.18-1.24
renum as s 16 R4 LA (see 2001 No 56 amdt 1.36)
am 2002 No 47 amdt 1.14
om A2006-27 s 6
ins A2011-11 s 5

Members of council

s 17 **orig s 17**
om 1996 No 35 sch
pres s 17
(prev s 13AA) ins 1998 No 50 s 14
am 2001 No 56 amdt 1.25
renum as s 17 R4 LA (see 2001 No 56 amdt 1.36)
am 2002 No 47 amdt 1.14
om A2006-27 s 6
ins A2011-11 s 5

Chair and deputy chair

s 18 **orig s 18**
om 1996 No 35 sch
pres s 18
(prev s 13AB) ins 1998 No 50 s 15
def **prescribed body** ins 1998 No 50 s 15
am 2001 No 56 amdt 1.26
def **private day hospital facility** ins 1998 No 50 s 15
renum as s 18 R4 LA (see 2001 No 56 amdt 1.36)
om A2006-27 s 6
ins A2011-11 s 5

Term of appointment of members

s 19 (prev s 13AC) ins 1998 No 50 s 15
am 2001 No 44 amdt 1.2023, amdt 1.2024
renum as s 19 R4 LA (see 2001 No 56 amdt 1.36)
om A2006-27 s 6
ins A2011-11 s 5

Ending of appointment of members

s 19A **orig s 19A**
renum as s 31
pres s 19A
ins A2011-11 s 5

Conditions of appointment generally

s 19B ins A2011-11 s 5

Proceedings of council

div 3A.2 hdg ins A2011-11 s 5

Time and place of meetings of council

s 19C ins A2011-11 s 5

Procedures governing proceedings of council

s 19D ins A2011-11 s 5

Council—disclosure of interests

s 19E ins A2011-11 s 5

Endnotes

4 Amendment history

Review of pt 3A

div 3A.3 hdg ins A2011-11 s 5
exp 2 years after the day it commences (s 19F (3))

Review of pt 3A

s 19F ins A2011-11 s 5
exp 2 years after the day it commences (s 19F (3))

Quality assurance

pt 4 hdg (prev pt 3A hdg) ins 1998 No 50 s 15
renum as pt 4 hdg R4 LA (see 2001 No 56 amdt 1.36)
sub A2006-27 s 6

Quality assurance—important concepts

div 4.1 hdg (prev pt 3A div 1 hdg) renum R4 LA (see 2001 No 56
amdt 1.36)
sub A2006-27 s 6

Definitions—pt 4

s 20 (prev s 13AD) ins 1998 No 50 s 15
renum as s 20 R4 LA (see 2001 No 56 amdt 1.36)
sub A2006-27 s 6
def **CEO** ins A2006-27 s 6
def **health facility QAC** ins A2006-27 s 6
def **health professional organisation** ins A2006-27 s 6
def **health professional organisation QAC** ins A2006-27 s 6
def **health service report** ins A2006-27 s 6
def **ministerial report** ins A2006-27 s 6
def **special purpose QAC** ins A2006-27 s 6

What is a health professional organisation?

s 21 **orig s 21**
renum as s 34
pres s 21
(prev s 13AE) ins 1998 No 50 s 15
renum as s 21 R4 LA (see 2001 No 56 amdt 1.36)
sub A2006-27 s 6

Who is the CEO of a health facility?

s 22 **orig s 22**
renum as s 35 and then s 191
pres s 22
(prev s 13AF) ins 1998 No 50 s 15
renum as s 22 R4 LA (see 2001 No 56 amdt 1.36)
sub A2005-54 amdt 1.169; A2006-27 s 6

Who is the CEO of a health professional organisation?

s 23 (prev s 13AG) ins 1998 No 50 s 15
renum as s 23 R4 LA (see 2001 No 56 amdt 1.36)
sub A2006-27 s 6

Quality assurance—quality assurance committees

div 4.2 hdg (prev pt 3A div 2 hdg) renum R4 LA (see 2001 No 56
amdt 1.36)
sub A2006-27 s 6

What is a *quality assurance committee*?

s 24 (prev s 13AH) ins 1998 No 50 s 15
renum as s 24 R4 LA (see 2001 No 56 amdt 1.36)
sub A2006-27 s 6

Approval of health facility QACs

s 25 (prev s 13AI) ins 1998 No 50 s 15
am 2001 No 56 amdts 1.27-1.33
renum as s 25 R4 LA (see 2001 No 56 amdt 1.36)
sub A2006-27 s 6

Approval of health professional organisation QACs

s 26 (prev s 13AJ) ins 1998 No 50 s 15
am 2001 No 56 amdt 1.34
renum as s 26 R4 LA (see 2001 No 56 amdt 1.36)
sub A2006-27 s 6

Approval of special purpose QACs

s 27 (prev s 13A) ins 1996 No 35 sch
renum as s 27 R4 LA (see 2001 No 56 amdt 1.36)
sub A2006-27 s 6

Quality Assurance Committees—term

s 27A ins A2011-11 s 6

Quality assurance committees—criteria for approval

s 28 (prev s 14) am 1994 No 38 sch 1 pt 44; 1998 No 50 s 16
renum as s 28 R4 LA (see 2001 No 56 amdt 1.36)
sub A2006-27 s 6

Quality assurance committees—revocation of approval

s 29 (prev s 15) renum as s 29 R4 LA (see 2001 No 56 amdt 1.36)
sub A2006-27 s 6

Quality assurance committees—functions

s 30 (prev s 16) renum as s 30 R4 LA (see 2001 No 56 amdt 1.36)
sub A2006-27 s 6

Meaning of *abortion* for pt 6

s 30A renum as s 80

Only doctor may carry out abortion

s 30B renum as s 81

Abortion to be carried out in approved medical facility

s 30C renum as s 82

Endnotes

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Approval of facilities

s 30D renum as s 83

No obligation to carry out abortion

s 30E renum as s 84

Quality assurance committees—appointment of members

s 31 (prev s 19A) ins 1996 No 35 sch
renum as s 31 R4 LA (see 2001 No 56 amdt 1.36)
sub A2006-27 s 6

Quality assurance committees—disclosure of interests

s 32 (prev s 19) am 1994 No 38 sch 1 pt 44; 1994 No 60 sch 1
sub 1998 No 50 s 17
renum as s 32 R4 LA (see 2001 No 56 amdt 1.36)
sub A2006-27 s 6

Quality assurance committees—procedure

s 33 (prev s 20) am 1994 No 38 sch 1 pt 44; 1994 No 60 sch 1
sub 1998 No 50 s 17
renum as s 33 R4 LA (see 2001 No 56 amdt 1.36)
sub A2006-27 s 6

Definitions for pt 7

s 33A renum as s 100

Service contracts

s 33B renum as s 101

Core conditions

s 33C renum as s 102

Collective negotiations

s 33D renum as s 103

Negotiating agents

s 33E renum as s 104

Authorised representatives

s 33F renum as s 105

Arbitration

s 33G renum as s 106

Trade Practices Act authorisation

s 33H renum as s 107

Quality assurance committees—protection of members etc from liability

s 34 (prev s 21) ins 1994 No 23 s 5
renum as s 34 R4 LA (see 2001 No 56 amdt 1.36)
om A2006-27 amdt 1.25
ins A2006-27 s 6

Quality assurance committees—obtaining information

s 35 **orig s 35**
 renum as s 191
 pres s 35
 ins A2006-27 s 6

Assessment and evaluation of health services

div 4.3 hdg ins A2006-27 s 6

Assessment and evaluation of health services

s 36 **orig s 36**
 renum as s 192
 pres s 36
 ins A2006-27 s 6

Approval of quality assurance activities

s 37 **orig s 37**
 renum as s 193
 pres s 37
 ins A2006-27 s 6

Approved forms

s 37A renum as s 194

Regulations about nurse practitioners

s 37B renum as s 195

Preparing health service reports

s 38 **orig s 38**
 renum as s 196
 pres s 38
 ins A2006-27 s 6

Extraordinary reports

s 38A ins A2011-11 s 7

Interim reports

s 38B ins A2011-11 s 7

Giving health service reports to CEO or chief executive

s 39 **orig s 39**
 ins 2002 No 47 amdt 1.16
 exp 31 December 2003 (s 46)
 prev s 39
 renum as s 240
 pres s 39
 ins A2006-27 s 6

Endnotes

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Monitoring implementation of recommendations

s 40 **orig s 40**
ins 2002 No 47 amdt 1.16
exp 31 December 2003 (s 46)
prev s 40
renum as s 241
pres s 40
ins A2006-27 s 6

Quality assurance committees—reporting

div 4.4 hdg ins A2006-27 s 6

Annual quality assurance committee report to Minister

s 41 ins 2002 No 47 amdt 1.16
exp 31 December 2003 (s 46)
ins A2006-27 s 6

Other quality assurance committee reports

s 42 ins 2002 No 47 amdt 1.16
exp 31 December 2003 (s 46)
ins A2006-27 s 6

Quality assurance committees—information sharing

div 4.5 hdg ins A2006-27 s 6

Quality assurance committees—giving information to the Coroner's Court

s 43 ins 2002 No 47 amdt 1.16
exp 31 December 2003 (s 46)
ins A2006-27 s 6
sub A2011-11 s 8

Quality assurance committees—giving information to other quality assurance committees

s 44 ins 2002 No 47 amdt 1.16
exp 31 December 2003 (s 46)
ins A2006-27 s 6
sub A2011-11 s 8

Quality assurance committees—giving information to health board and health services commissioner

s 45 hdg am A2010-10 amdt 2.30
s 45 ins 2002 No 47 amdt 1.16
exp 31 December 2003 (s 46)
ins A2006-27 s 6
am A2010-10 amdt 2.30
sub A2011-11 s 8

Quality assurance committees—giving information to Minister

s 46 ins 2002 No 47 amdt 1.16
 exp 31 December 2003 (s 46)
 ins A2006-27 s 6
 sub A2011-11 s 8

Quality assurance committees—admissibility of evidence

s 47 ins A2006-27 s 6

Reviewing scope of clinical practice

pt 5 hdg **orig pt 5 hdg**
 om 1996 No 35 sch
pres pt 5 hdg
 (prev pt 4 hdg) renum as pt 5 hdg R4 LA (see 2001 No 56
 amdt 1.36)
 sub A2006-27 s 6; A2011-11 s 9

Definitions—pt 5

s 50 ins A2006-27 s 6
 def **CEO** ins A2006-27 s 6
 def **clinical privileges** ins A2006-27 s 6
 om A2011-11 s 10
 def **clinical privileges report** ins A2006-27 s 6
 om A2011-11 s 10
 def **clinical privileges review notice** ins A2006-27 s 6
 om A2011-11 s 10
 def **dentist** ins A2006-27 s 6
 def **doctor** ins A2006-27 s 6
 def **hospital** ins A2006-27 s 6
 def **review** ins A2006-27 s 6
 sub A2011-11 s 11
 def **scope of clinical practice** ins A2011-11 s 11
 def **scope of clinical practice executive decision notice** ins
 A2011-11 s 11
 def **scope of clinical practice report** ins A2011-11 s 11

What is a *scope of clinical practice committee*?

s 51 ins A2006-27 s 6
 sub A2011-11 s 12

Who is a *doctor* or *dentist* for a health facility?

s 52 ins A2006-27 s 6

Who is the *CEO* of a health facility?

s 53 ins A2006-27 s 6

What is *scope of clinical practice*?

s 54 ins A2006-27 s 6
 sub A2011-11 s 13

Endnotes

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Meaning of *review* scope of clinical practice

s 55 ins A2006-27 s 6
sub A2011-11 s 13

Approval of scope of clinical practice committees

s 56 ins A2006-27 s 6
sub A2011-11 s 13

Scope of clinical practice committees—criteria for approval

s 57 ins A2006-27 s 6
sub A2011-11 s 13

Scope of clinical practice committees—revocation of approval

s 58 ins A2006-27 s 6
sub A2011-11 s 13

Scope of clinical practice committees—functions

s 59 ins A2006-27 s 6
sub A2011-11 s 13

Scope of clinical practice committees—appointment of members

s 60 ins A2006-27 s 6
sub A2011-11 s 13

Scope of clinical practice committees—disclosure of interests

s 61 ins A2006-27 s 6
sub A2011-11 s 13

Scope of clinical practice committees—procedure

s 62 ins A2006-27 s 6
sub A2011-11 s 13

Scope of clinical practice committees—protection of members etc from liability

s 63 ins A2006-27 s 6
sub A2011-11 s 13

Scope of clinical practice committees—obtaining information

s 64 ins A2006-27 s 6
sub A2011-11 s 13

Scope of clinical practice committee must give doctor or dentist opportunity to explain

s 65 ins A2006-27 s 6
sub A2011-11 s 13

Interim and emergency withdrawal or amendment of scope of clinical practice by committee

s 66 ins A2006-27 s 6
sub A2011-11 s 13

Preparing scope of clinical practice reports

s 67 ins A2006-27 s 6
sub A2011-11 s 13

Giving scope of clinical practice reports to CEO of health facility and doctor or dentist

s 68 ins A2006-27 s 6
sub A2011-11 s 13

CEO may make interim or emergency decision on scope of clinical practice

s 69 ins A2006-27 s 6
sub A2011-11 s 13

CEO must make decision on scope of clinical practice report

s 70 ins A2006-27 s 6
am A2008-37 amdt 1.232
sub A2011-11 s 13

When CEO decision on scope of clinical practice report takes effect

s 71 ins A2006-27 s 6
sub A2011-11 s 13

CEO may give information about decision to health facility outside ACT

s 72 hdg am A2010-10 amdt 2.30
s 72 ins A2006-27 s 6
am A2010-10 amdt 2.30
sub A2011-11 s 13

Request for information by health facility outside ACT

s 73 ins A2006-27 s 6
sub A2011-11 s 13

Scope of clinical practice committees—giving information to health board and health services commissioner

s 74 ins A2006-27 s 6
sub A2011-11 s 13

Scope of clinical practice committees—admissibility of evidence

s 75 ins A2011-11 s 13

Sharing information with other committees

s 76 ins A2011-11 s 13

Sharing information with 3rd parties

s 77 ins A2011-11 s 13

Complainants to remain anonymous

s 78 ins A2011-11 s 13

Abortions

pt 5A hdg renum as pt 6 hdg

Endnotes

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Abortions

pt 6 hdg

orig pt 6 hdg

om A2006-27 amdt 1.9

pres pt 6 hdg

(prev pt 5A hdg) reloc from Medical Practitioners Act 1930

pt 4B by A2005-28 amdt 1.70

renum as pt 6 hdg A2006-27 amdt 1.4

Meaning of *abortion* for pt 6

s 80 hdg

(prev s 30A hdg) am A2006-27 amdt 1.5

s 80

(prev s 30A) reloc from Medical Practitioners Act 1930 s 55A

by A2005-28 amdt 1.70

renum as s 80 A2006-27 amdt 1.6

Only doctor may carry out abortion

s 81

(prev s 30B) reloc from Medical Practitioners Act 1930 s 55B

by A2005-28 amdt 1.70

renum as s 81 A2006-27 amdt 1.6

Abortion to be carried out in approved medical facility

s 82

(prev s 30C) reloc from Medical Practitioners Act 1930 s 55C

by A2005-28 amdt 1.70

am A2006-27 amdt 1.7

renum as s 82 A2006-27 amdt 1.8

Approval of facilities

s 83

(prev s 30D) reloc from Medical Practitioners Act 1930 s 55D

by A2005-28 amdt 1.70

renum as s 83 A2006-27 amdt 1.8

am A2011-3 amdt 3.221

No obligation to carry out abortion

s 84

(prev s 30E) reloc from Medical Practitioners Act 1930 s 55E

by A2005-28 amdt 1.70

renum as s 84 A2006-27 amdt 1.8

VMO service contracts

pt 7 hdg

orig pt 7 hdg

renum as pt 15 hdg

pres pt 7 hdg

(prev pt 6A hdg) ins A2003-43 s 4

renum as pt 7 hdg A2006-27 amdt 1.10

Definitions for pt 7

s 100 hdg

(prev s 33A hdg) am A2006-27 amdt 1.11

s 100

(prev s 33A) ins A2003-43 s 4

renum as s 100 A2006-27 amdt 1.16

def **authorised representative** ins A2003-43 s 4

am A2006-27 amdt 1.12

def **core conditions** ins A2003-43 s 4
 am A2006-27 amdt 1.13
 def **entity** ins A2003-43 s 4
 def **negotiating agent** ins A2003-43 s 4
 am A2006-27 amdt 1.14
 def **negotiating period** ins A2003-43 s 4
 am A2006-27 amdt 1.15
 def **practice corporation** ins A2003-43 s 4
 def **service contract** ins A2003-43 s 4
 def **VMO** ins A2003-43 s 4

Service contracts

s 101 (prev s 33B) ins A2003-43 s 4
 renum as s 101 A2006-27 amdt 1.16

Core conditions

s 102 (prev s 33C) ins A2003-43 s 4
 am A2006-27 amdt 1.17, amdt 1.18
 renum as s 102 A2006-27 amdt 1.19
 am A2011-3 amdt 3.222

Collective negotiations

s 103 (prev s 33D) ins A2003-43 s 4
 renum as s 103 A2006-27 amdt 1.19

Negotiating agents

s 104 (prev s 33E) ins A2003-43 s 4
 am A2005-62 amdt 3.119
 renum as s 104 A2006-27 amdt 1.19

Authorised representatives

s 105 (prev s 33F) ins A2003-43 s 4
 am A2006-27 amdts 1.20-1.22
 renum as s 105 A2006-27 amdt 1.23

Arbitration

s 106 (prev s 33G) ins A2003-43 s 4
 renum as s 106 A2006-27 amdt 1.23
 am A2011-3 amdt 3.223

Competition and Consumer Act authorisation

s 107 hdg am A2010-54 amdt 3.32
 s 107 (prev s 33H) ins A2003-43 s 4
 renum as s 107 A2006-27 amdt 1.23
 am A2010-54 amdt 3.33

Endnotes

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Secrecy

pt 8 hdg

orig pt 8 hdg

ins 2002 No 47 amdt 1.16
exp 31 December 2003 (s 46)

prev pt 8 hdg

renum as pt 20 hdg

pres pt 8 hdg

ins A2006-27 s 7

Definitions—pt 8

s 120

ins A2006-27 s 7

def **divulge** ins A2006-27 s 7

def **information holder** ins A2006-27 s 7

def **protected information** ins A2006-27 s 7

When is information *divulged*?

s 121

ins A2006-27 s 7

Who is an *information holder*?

s 122

ins A2006-27 s 7

am A2010-10 amdt 2.31; A2011-11 s 14, s 15

What is *protected information*?

s 123

ins A2006-27 s 7

What is *sensitive information*?

s 124

ins A2006-27 s 7

am A2011-11 s 16

Offence—secrecy of protected information

s 125

ins A2006-27 s 7

am A2011-3 amdt 3.224

Information may be given to Medicare Australia

s 126

ins A2006-27 s 7

Offence—provision of health services by non-health practitioners

pt 8A hdg

ins A2010-10 amdt 2.32

Provision of regulated health service by person not health practitioner

s 127

ins A2010-10 amdt 2.32

Pharmacists and pharmacy premises

pt 9 hdg

orig pt 9 hdg renum as pt 10 hdg

ins A2008-26 amdt 2.74

sub A2010-10 amdt 2.33

Meaning of *community pharmacy*—pt 9

s 128

ins A2010-10 amdt 2.33

Complying pharmacy corporation

s 128A

ins A2010-10 amdt 2.33

Standard of premises

s 128B ins A2010-10 amdt 2.33

Restriction on pharmacy premises—supermarkets

s 129 ins A2008-26 amdt 2.74
am A2010-10 amdt 2.34

Ownership of pharmacy business

s 129A ins as mod SL2010-39 mod 1.1 (see endnote 7)
exp 1 July 2012 (see A2010-10 s 12A (2))

Review of decisions

pt 10 hdg (prev pt 9 hdg) ins A2006-27 s 7
renum as pt 10 hdg A2008-26 amdt 2.75

Review of decisions

s 130 ins A2006-27 s 7
am A2008-37 amdt 1.233; A2011-11 s 17

Pt 9 obligations—no contracting out

s 131 ins A2006-27 s 7

Miscellaneous

pt 15 hdg (prev pt 7 hdg) ins 1994 No 23 s 5
renum as pt 15 hdg A2006-27 amdt 1.24

Protection of doctor or dentist from liability in emergency

s 189 ins A2011-11 s 18

Disclosure of interests by committee members

s 190 ins A2006-27 s 8
am A2011-11 s 19

References to Health and Community Care Service

s 191 (prev s 22) ins 1994 No 23 s 5
sub 2001 No 44 amdt 1.2025
renum as s 35 R4 LA (see 2001 No 56 amdt 1.36)
sub 2002 No 47 amdt 1.15
renum as s 191 A2006-27 amdt 1.26

Determination of fees

s 192 (prev s 36) ins 2002 No 47 amdt 1.15
renum as s 192 A2006-27 amdt 1.26
am A2011-3 amdt 3.225

Payment of fees and interest

s 193 (prev s 37) ins 2002 No 47 amdt 1.15
renum as s 193 A2006-27 amdt 1.26
am A2011-3 amdt 3.226

Endnotes

4 Amendment history

Approved forms

s 194 (prev s 37A) ins A2003-43 s 5
renum as s 194 A2006-27 amdt 1.26
am A2011-3 amdt 3.227

Regulations about nurse practitioners

s 195 (prev s 37B) ins A2004-10 s 4
renum as s 195 A2006-27 amdt 1.26

Regulation-making power

s 196 (prev s 38) ins 2002 No 47 amdt 1.15
renum as s 196 A2006-27 amdt 1.26

Transitional—Health Professionals Act 2004

pt 20 hdg (prev pt 8 hdg) ins A2004-39 amdt 1.15
renum as pt 20 hdg A2006-27 amdt 1.27
exp 9 January 2009 (s 241)

Transitional—definitions in Health (Fees) Determination

s 240 hdg (prev s 39 hdg) sub A2006-27 amdt 1.28
s 240 (prev s 39) ins A2004-39 amdt 1.15
renum as s 240 A2006-27 amdt 1.28
exp 9 January 2009 (s 241)

Expiry—pt 20

s 241 hdg (prev s 40 hdg) sub A2006-27 amdt 1.29
s 241 (prev s 40) ins A2004-39 amdt 1.15
renum as s 241 A2006-27 amdt 1.29
exp 9 January 2009 (s 241)

Transitional—Health Legislation Amendment Act 2006

pt 21 hdg ins A2006-27 s 9
exp 14 December 2007 (s 243)

Transitional—protection of former members from liability

s 242 ins A2006-27 s 9
exp 14 December 2007 (s 243)

Expiry—pt 21

s 243 ins A2006-27 s 9
am A2007-16 amdt 3.68
exp 14 December 2007 (s 243)

Approval of facilities—transitional

s 250 ins A2006-46 amdt 2.25
exp 18 November 2006 (s 250 (3) (LA s 88 declaration
applies))

Transitional—Health Amendment Act 2011

pt 22 hdg ins A2011-11 s 20
exp 13 April 2012 (s 260)

Definitions—pt 22

s 255 ins 2011-11 s 20
exp 13 April 2012 (s 260)
 def **clinical privileges committee** ins A2011-11 s 20
exp 13 April 2012 (s 260)
 def **commencement day** ins A2011-11 s 20
exp 13 April 2012 (s 260)

Transitional—quality assurance committee already appointed

s 256 ins A2011-11 s 20
exp 13 April 2012 (s 260)

Transitional—clinical privileges—review not begun

s 257 ins A2011-11 s 20
exp 13 April 2012 (s 260)

Transitional—clinical privileges—review begun

s 258 ins A2011-11 s 20
exp 13 April 2012 (s 260)

Transitional—clinical privileges committees—admissibility of evidence

s 259 ins A2011-11 s 20
exp 13 April 2012 (s 260)

Expiry—pt 22

s 260 ins A2011-11 s 20
exp 13 April 2012 (s 260)

Dictionary

dict ins 2001 No 56 amdt 1.35
 sub A2006-27 s 10
 am A2008-37 amdt 1.234, amdt 1.235; A2010-10 amdt 2.35;
 A2011-11 s 21
 def **abortion** ins R17 LA
 def **approved committee** om 1998 No 50 s 5
 def **approved private sector committee** ins 1998 No 50 s 5
 om A2006-27 s 10
 def **approved public sector committee** ins 1998 No 50 s 5
 sub 2001 No 56 amdt 1.4
 am A2003-41 amdt 1.2
 om A2006-27 s 10
 def **authorised representative** ins A2003-43 s 6
 sub A2006-27 s 10
 def **CEO** ins A2006-27 s 10
 def **chief executive officer, Calvary** ins A2011-11 s 22
 def **clinical privileges** sub A2006-27 s 10
 om A2011-11 s 23
 def **clinical privileges committee** ins A2006-27 s 10
 om A2011-11 s 23

Endnotes

4 Amendment history

- def **clinical privileges report** ins A2006-27 s 10
om A2011-11 s 23
- def **clinical privileges review notice** ins A2006-27 s 10
om A2011-11 s 23
- def **community pharmacy** ins A2010-10 amdt 2.36
- def **core conditions** ins A2003-43 s 6
sub A2006-27 s 10
- def **council** ins A2011-11 s 24
- def **day hospital** ins A2006-27 s 10
- def **dentist** ins A2006-27 s 10
sub A2011-11 s 25
- def **divulge** ins A2006-27 s 10
- def **doctor** ins A2006-27 s 10
sub A2011-11 s 26
- def **engage** ins A2006-27 s 10
- def **entity** ins A2006-27 s 10
- def **health board** ins A2010-10 amdt 2.36
- def **health facility** am 1996 No 35 sch; 2002 No 47 amdt 1.17
sub A2006-27 s 10
- def **health facility QAC** ins A2006-27 s 10
- def **health profession board** ins A2006-27 s 10
om A2010-10 amdt 2.37
- def **health professional** ins A2006-27 s 10
om A2010-10 amdt 2.37
- def **health professional organisation** ins A2006-27 s 10
- def **health professional organisation QAC** ins A2006-27
s 10
- def **health service** ins A2006-27 s 10
- def **health service provider** sub A2004-39 amdt 1.16;
A2006-27 s 10
- def **health service report** ins A2006-27 s 10
- def **hospital** ins A2006-27 s 10
sub A2011-11 s 27
- def **information holder** ins A2006-27 s 10
- def **local hospital network** ins A2011-11 s 28
- def **ministerial report** ins A2006-27 s 10
- def **negotiating agent** ins A2003-43 s 6
sub A2006-27 s 10
- def **negotiating period** ins A2003-43 s 6
sub A2006-27 s 10
- def **practice corporation** ins A2003-43 s 6
sub A2006-27 s 10
- def **prescribed body** ins 2001 No 56 amdt 1.35
om A2006-27 s 10
- def **private day hospital facility** ins 2001 No 56 amdt 1.35
om A2006-27 s 10
- def **protected information** ins A2006-27 s 10

def **quality assurance activities** om 2001 No 56 amdt 1.5
 def **quality assurance activity** ins 2001 No 56 amdt 1.5
 om A2006-27 s 10
 def **quality assurance committee** ins A2006-27 s 10
 def **review** ins A2006-27 s 10
 sub A2011-11 s 29
 def **scope of clinical practice** ins A2011-11 s 24
 def **scope of clinical practice committee** ins A2011-11 s 24
 def **scope of clinical practice executive decision notice** ins
 A2011-11 s 24
 def **scope of clinical practice report** ins A2011-11 s 24
 def **sensitive information** ins A2006-27 s 10
 def **service contract** ins A2003-43 s 6
 sub A2006-27 s 10
 def **special purpose QAC** ins A2006-27 s 10
 def **tribunal** om 1994 No 60 sch 1
 def **VMO** ins A2003-43 s 6
 sub A2006-27 s 10

5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	Act 1994 No 60	28 February 1995
2	Act 1996 No 35	31 January 1998
3	Act 1998 No 54	28 February 1999
4	Act 2001 No 56	19 April 2002
5	A2002-47	31 December 2002
6	A2003-43	30 September 2003
7	A2003-43	9 October 2003
8	A2003-43	24 December 2003
9	A2004-10	27 May 2004

Endnotes

6 Renumbered provisions

Republication No	Amendments to	Republication date
10	A2005-28	7 July 2005
11	A2005-54	24 November 2005
12*	A2005-62	11 January 2006
13	A2006-46	18 November 2006
14	A2006-46	19 November 2006
15	A2006-46	14 December 2006
16	A2007-16	11 July 2007
17	A2007-16	15 December 2007
18	<u>A2008-37</u>	10 January 2009
19	A2008-37	2 February 2009
20	A2008-37	14 February 2009
21*	A2010-10	1 July 2010
22	A2010-10	12 October 2010
23	A2010-54	1 January 2011
24	A2011-3	1 March 2011

6 Renumbered provisions

This Act was renumbered under the *Legislation Act 2001*, in R4 (see Act 2001 No 56). Details of renumbered provisions are shown in endnote 4 (Amendment history). For a table showing the renumbered provisions, see R4.

7 Modifications of republished law with temporary effect

The following modifications have not been included in this republication:

**Health Practitioner Regulation National Law (ACT)
(Transitional Provisions) Regulation 2010 (No 2)
SL2010-39 s 3 and sch 1****3 Modification of Act, pt 3—Act, s 13 (2)**

The Act, part 3 applies as if the following section were inserted in division 3.1:

‘12A Modification—Health Act 1993

- (1) The *Health Act 1993* is modified as set out in the *Health Practitioner Regulation National Law (ACT) (Transitional Provisions) Regulation 2010 (No 2)*, schedule 1.
- (2) This section expires on the day the *Health Practitioner Regulation National Law (ACT) (Transitional Provisions) Regulation 2010 (No 2)* expires.’

Schedule 1 Modification—Health Act 1993

(see s 3)

[1.1] New section 129A

in part 9, insert

129A Ownership of pharmacy business

- (1) A person must not own a pharmacy business unless the person is—
 - (a) a pharmacist; or

Endnotes

8 Uncommenced amendments

(b) a complying pharmacy corporation.

Maximum penalty: 200 penalty units.

(2) In this section:

medicine—see the *Medicines, Poisons and Therapeutic Goods Act 2008*, dictionary.

own, for a pharmacy business, includes having a legal or beneficial interest in the pharmacy business.

pharmacy business means a business providing pharmacy services at a community pharmacy.

pharmacy services includes—

- (a) the supply, compounding or dispensing of a medicine; and
- (b) advice and counselling on the effective use of a medicine.

8 Uncommenced amendments

The following amendments have not been included in this republication because they were uncommenced at the republication date:

Health Amendment Act 2011 A2011-11 s 4, s 5

4 New section 8

in part 2, insert

8 What is the *local hospital network*?

In this Act:

local hospital network means the system of health services in the ACT that is made up of health services provided by each of the following health facilities in accordance with an agreement between each facility and ACT Health:

- (a) Calvary Hospital (as a deliverer of hospital services to public patients);
- (b) Canberra Hospital;
- (c) Clare Holland House;
- (d) Queen Elizabeth II Family Centre.

5 New part 3A

insert

Part 3A Local Health and Hospitals Network

Division 3A.1 Establishment, functions and members of Local Hospital Network Council

13 Local Hospital Network Council

The Local Hospital Network Council is established.

14 Functions of council

- (1) The function of the council is to advise the chief executive about the following:
 - (a) the clinical and corporate governance framework needed to support the maintenance and improvement of standards of patient care and services under the local hospital network;
 - (b) strategies and methods—
 - (i) to support the efficient and economic operation of the local hospital network; and

Endnotes

- (ii) to ensure the network manages its budget to meet performance targets; and
 - (iii) to ensure that network resources are applied equitably to meet the needs of the community; and
 - (iv) to promote cooperation between health facilities;
 - (c) ways in which to support, encourage and facilitate community and clinician involvement in the planning of services that form part of the local hospital network;
 - (d) the local hospital network's policies, plans and initiatives for the provision of health services;
 - (e) any other matter prescribed by regulation.
- (2) The council may exercise any other function given to it under this Act, by regulation or another territory law.

Note A provision of a law that gives an entity (including a person) a function also gives the entity the powers necessary and convenient to exercise the function (see Legislation Act, s 196 (1) and dict, pt 1, defs *entity* and *function*).

15 Council report to Minister etc

- (1) The council must give a report to the Minister each financial year on the following matters:
- (a) the state of the local hospital network;
 - (b) any recommendations relating to the improvement of health services by the local hospital network that the council considers necessary.
- (2) Before giving a report, the council must consult with the community about any issues affecting the satisfactory delivery of health services, and the overall performance of the local hospital network at least once for the financial year to which the report relates.

- (3) In addition, the council must provide a report to the Minister as soon as practicable after the end of each quarter with details of progress the council has made for each of its functions and any other significant developments during the quarter.
- (4) The Minister must, within 6 sitting days after the day a report under subsection (1) is given to the Minister, present the report to the Legislative Assembly.

16 Membership of council

The council consists of not more than 10 members appointed by the Minister.

Note 1 For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

Note 2 In particular, an appointment may be made by naming a person or nominating the occupant of a position (see Legislation Act, s 207).

Note 3 Certain Ministerial appointments require consultation with an Assembly committee and are disallowable (see Legislation Act, div 19.3.3).

17 Members of council

- (1) The council must include members who bring the necessary skills and experience to allow the council to perform its functions under the Act, and include members who have expertise or experience in 1 or more of the following areas:
 - (a) 1 person who has health management experience;
 - (b) 1 person who is a medical practitioner with at least 5 years clinical experience;
 - (c) 1 person who has expertise in clinical matters;
 - (d) 1 person who has expertise, knowledge or experience with local primary health care organisations;
 - (e) 1 person who has academic, teaching and research experience in the field of health services;

Endnotes

8 Uncommenced amendments

- (f) 1 person who has financial management experience;
 - (g) 1 person who—
 - (i) has experience in the provision of carer services; or
 - (ii) is a consumer of health services;
 - (h) 1 person who has experience in managing public consultation processes.
- (2) A regulation may increase the number of people with particular experience that are required to be included as members of the council.

18 Chair and deputy chair

- (1) The Minister must appoint—
- (a) a member to be chair; and
 - (b) another member to be deputy chair.
- (2) An appointment under subsection (1) ends if the appointee is no longer a member.

19 Term of appointment of members

The appointment of a member must be for a term of not longer than 2 years.

Note A person may be reappointed to a position if the person is eligible to be appointed to the position (see Legislation Act, s 208 and dict, pt 1, def *appoint*).

19A Ending of appointment of members

The Minister may end the appointment of a member—

- (a) for misbehaviour or physical or mental incapacity; or
- (b) if the member is absent for 3 consecutive meetings of the council without reasonable excuse; or

- (c) if the member is convicted or found guilty of an indictable offence; or
- (d) if the member fails to comply with section 19E (Council—disclosure of interests) without reasonable excuse.

Note A member's appointment also ends if the member resigns (see Legislation Act, s 210).

19B Conditions of appointment generally

The conditions of appointment of a member are the conditions agreed between the Minister and the member, subject to any determination under the *Remuneration Tribunal Act 1995*.

Division 3A.2 Proceedings of council

19C Time and place of meetings of council

- (1) The council is to meet at the times and places it decides.
- (2) However, the council must meet at least 6 times a year.
- (3) The chair—
 - (a) may at any time call a meeting of the council; and
 - (b) must call a meeting if asked by the Minister, the chief executive or at least 6 members.
- (4) If the chair is not available for any reason to call a meeting of the council, the deputy chair may call the meeting.

19D Procedures governing proceedings of council

- (1) The chair presides at all meetings of the council at which the chair is present.
- (2) If the chair is absent, the deputy chair presides.
- (3) If the chair and deputy chair are both absent, the member chosen by the members present presides.

Endnotes

8 Uncommenced amendments

- (4) Business may be carried out at a meeting of the council only if 6 members are present.
- (5) At a meeting of the council each member has a vote on each question to be decided.
- (6) A question is decided by a majority of the votes of the members present and voting but, if the votes are equal, the member presiding has a casting vote.
- (7) The council may hold meetings, or allow members to take part in meetings, by telephone, closed-circuit television or another form of communication.
- (8) A member who takes part in a meeting conducted under subsection (7) is taken to be present at the meeting.
- (9) A resolution of the council is a valid resolution, even though it was not passed at a meeting of the council, if—
 - (a) all members agree, in writing, to the proposed resolution; and
 - (b) notice of the resolution is given under procedures decided by the council.
- (10) The council must keep minutes of its meetings.
- (11) The council may conduct its proceedings (including its meetings) as it otherwise considers appropriate.
- (12) The chief executive and a public servant appointed by the chief executive may attend meetings of the council, but may not vote on any question to be decided.

19E Council—disclosure of interests

- (1) Section 190 (Disclosure of interests by committee members) applies to the council as if the council were a committee and its members were members of a committee.

- (2) If a member of the council has a material interest in an issue being considered, or about to be considered, by the council, the person must disclose the nature of the interest, and all relevant facts about the interest, at a council meeting as soon as practicable after the relevant facts come to the person's knowledge.
- (3) Within 14 days after the end of each financial year, the chair of the council must give the Minister a statement of any disclosure of interest made under section 190 during the financial year.
- (4) In this section:
material interest—see section 190 (4).

Division 3A.3 Review of pt 3A

19F Review of pt 3A

- (1) The Minister must review the operation of this part as soon as practicable after the end of its first year of operation.
- (2) The Minister must present a report of the review to the Legislative Assembly within 12 months after the day the review is started.
- (3) This division expires 2 years after the day it commences.

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