

2011

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

---

(As presented)

(Minister for Health)

## Health Amendment Bill 2011

### Contents

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	Page
1 Name of Act	2
2 Commencement	2
3 Legislation amended	2
4 New section 8	2
5 New part 3A	3
6 New section 27A	9
7 New sections 38A and 38B	9
8 Sections 43 to 46	11
9 Part 5 heading	12
10 Definitions—pt 5 Section 50	12
11 Section 50, definition of <i>review</i> and note	12

## Contents

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	Page	
12	Section 51	13
13	Sections 54 to 74	13
14	Who is an <i>information holder</i> ? Section 122 (a) (ii), (iii) and (iv)	30
15	Section 122 (b), note, 4th and 5th dot points	31
16	What is <i>sensitive information</i> ? Section 124, definition of <i>sensitive information</i> , paragraph (a) (iv)	31
17	Review of decisions Section 130 (a)	31
18	New section 189	32
19	Disclosure of interests by committee members Section 190 (1), note 1	33
20	New part 22	33
21	Dictionary, new definition of <i>chief executive officer, Calvary</i>	35
22	Dictionary	35
23	Dictionary, new definition of <i>council</i>	35
24	Dictionary, definition of <i>dentist</i>	36
25	Dictionary, definition of <i>doctor</i>	36
26	Dictionary, definition of <i>hospital</i>	36
27	Dictionary, new definition of <i>local hospital network</i>	36
28	Dictionary, definition of <i>review</i>	36
29	Dictionary, new definitions	36

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(Minister for Health)

## Health Amendment Bill 2011

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### A Bill for

An Act to amend the *Health Act 1993*

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The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 **1 Name of Act**

2 This Act is the *Health Amendment Act 2011*.

3 **2 Commencement**

4 (1) This Act (other than sections 4 and 5) commences on the day after  
5 its notification day.

6 (2) Sections 4 and 5 commence on 1 July 2011.

7 *Note* The naming and commencement provisions automatically commence on  
8 the notification day (see Legislation Act, s 75 (1)).

9 **3 Legislation amended**

10 This Act amends the *Health Act 1993*.

11 **4 New section 8**

12 *in part 2, insert*

13 **8 What is the *local hospital network*?**

14 In this Act:

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

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

1 **5 New part 3A**

2 *insert*

3 **Part 3A Local Health and Hospitals**  
4 **Network**

5 **Division 3A.1 Establishment, functions and**  
6 **members of Local Hospital Network**  
7 **Council**

8 **13 Local Hospital Network Council**

9 The Local Hospital Network Council is established.

10 **14 Functions of council**

11 (1) The function of the council is to advise the chief executive about the  
12 following:

13 (a) the clinical and corporate governance framework needed to  
14 support the maintenance and improvement of standards of  
15 patient care and services under the local hospital network;

16 (b) strategies and methods—

17 (i) to support the efficient and economic operation of the  
18 local hospital network; and

19 (ii) to ensure the network manages its budget to meet  
20 performance targets; and

21 (iii) to ensure that network resources are applied equitably to  
22 meet the needs of the community; and

23 (iv) to promote cooperation between health facilities;

- 1 (c) ways in which to support, encourage and facilitate community  
2 and clinician involvement in the planning of services that form  
3 part of the local hospital network;
- 4 (d) the local hospital network's policies, plans and initiatives for  
5 the provision of health services;
- 6 (e) any other matter prescribed by regulation.
- 7 (2) The council may exercise any other function given to it under this  
8 Act, by regulation or another territory law.
- 9 *Note* A provision of a law that gives an entity (including a person) a function  
10 also gives the entity the powers necessary and convenient to exercise  
11 the function (see Legislation Act, s 196 (1) and dict, pt 1, defs *entity* and  
12 *function*).

13 **15 Council report to Minister etc**

- 14 (1) The council must give a report to the Minister each financial year on  
15 the following matters:
- 16 (a) the state of the local hospital network;
- 17 (b) any recommendations relating to the improvement of health  
18 services by the local hospital network that the council  
19 considers necessary.
- 20 (2) Before giving a report, the council must consult with the community  
21 about any issues affecting the satisfactory delivery of health  
22 services, and the overall performance of the local hospital network  
23 at least once for the financial year to which the report relates.
- 24 (3) In addition, the council must provide a report to the Minister as soon  
25 as practicable after the end of each quarter with details of progress  
26 the council has made for each of its functions and any other  
27 significant developments during the quarter.

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1   **16**           **Membership of council**

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

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

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

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

10   **17**           **Members of council**

11           (1) The council must include at least the following members:

12           (a) 1 person who has health management experience;

13           (b) 1 person who—

14               (i) is a medical practitioner with at least 5 years clinical  
15               experience; and

16               (ii) has expertise in clinical matters;

17           (c) 1 person who has expertise, knowledge or experience with  
18           local primary health care organisations;

19           (d) 1 person who has academic, teaching and research experience  
20           in the field of health services;

21           (e) 1 person who has financial management experience;

22           (f) 1 person who—

23               (i) has experience in the provision of carer services; or

24               (ii) is a consumer of health services;

25           (g) 1 person who has experience in managing public consultation  
26           processes.

- 1 (2) A regulation may increase the number of people with particular  
2 experience that are required to be included as members of the  
3 council.

4 **18 Chair and deputy chair**

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

10 **19 Term of appointment of members**

11 The appointment of a member must be for a term of not longer than  
12 2 years.

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

16 **19A Ending of appointment of members**

- 17 The Minister may end the appointment of a member—  
18 (a) for misbehaviour or physical or mental incapacity; or  
19 (b) if the member is absent for 3 consecutive meetings of the  
20 council without reasonable excuse; or  
21 (c) if the member is convicted or found guilty of an indictable  
22 offence; or  
23 (d) if the member fails to comply with section 19E (Council—  
24 disclosure of interests) without reasonable excuse.

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

1 **19B Conditions of appointment generally**

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

5 **Division 3A.2 Proceedings of council**

6 **19C Time and place of meetings of council**

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

15 **19D Procedures governing proceedings of council**

- 16 (1) The chair presides at all meetings of the council at which the chair is  
17 present.  
18 (2) If the chair is absent, the deputy chair presides.  
19 (3) If the chair and deputy chair are both absent, the member chosen by  
20 the members present presides.  
21 (4) Business may be carried out at a meeting of the council only if  
22 3 members are present.  
23 (5) At a meeting of the council each member has a vote on each  
24 question to be decided.

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

20 **19E Council—disclosure of interests**

- 21 (1) Section 190 (Disclosure of interests by committee members) applies  
22 to the council as if the council were a committee and its members  
23 were members of a committee.
- 24 (2) If a member of the council has a material interest in an issue being  
25 considered, or about to be considered, by the council, the person  
26 must disclose the nature of the interest, and all relevant facts about  
27 the interest, at a council meeting as soon as practicable after the  
28 relevant facts come to the person's knowledge.

- 1 (3) Within 14 days after the end of each financial year, the chair of the  
2 council must give the Minister a statement of any disclosure of  
3 interest made under section 190 during the financial year.
- 4 (4) In this section:  
5 *material interest*—see section 190 (4).

## 6 **Division 3A.3 Review of pt 3A**

### 7 **19F Review of pt 3A**

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

## 13 **6 New section 27A**

14 *insert*

### 15 **27A Quality Assurance Committees—term**

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

## 18 **7 New sections 38A and 38B**

19 *insert*

### 20 **38A Extraordinary reports**

- 21 (1) This section applies if—  
22 (a) a quality assurance committee is assessing and evaluating  
23 health services under section 36; and

- 1 (b) the quality assurance committee becomes aware of something  
2 that is sufficiently serious to require urgent action to prevent or  
3 limit any adverse effect it might have on the health service.
- 4 (2) The quality assurance committee must report the thing to the chief  
5 executive as soon as possible, even if the committee has not  
6 completed the assessment and evaluation.
- 7 (3) Subsection (2) applies even if the thing is not related to the quality  
8 assurance activity the committee is carrying out.
- 9 (4) A report under subsection (2) must be in writing and may include  
10 sensitive information.

11 *Note Sensitive information*—see s 124.

12 **38B Interim reports**

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

25 *Note Sensitive information*—see s 124.

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**8 Sections 43 to 46**

*substitute*

**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).

1 **46** **Quality assurance committees—giving information to**  
2 **Minister**

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

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

8 **9** **Part 5 heading**

9 *substitute*

10 **Part 5** **Reviewing scope of clinical**  
11 **practice**

12 **10** **Definitions—pt 5**  
13 **Section 50**

14 *omit the definitions of*

15 *clinical privileges*

16 *clinical privileges report*

17 *clinical privileges review notice*

18 **11** **Section 50, definition of *review* and *note***

19 *substitute*

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

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

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

1            *scope of clinical practice report*—see section 67.

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

3            **12            Section 51**

4            *substitute*

5            **51            What is a *scope of clinical practice committee*?**

6            In this Act:

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

9            **13            Sections 54 to 74**

10           *substitute*

11           **54            What is *scope of clinical practice*?**

12           In this part:

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

16           (a) to treat patients or carry out other procedures at the health  
17           facility; or

18           (b) to use the equipment or other facilities of the health facility.

19           **55            Meaning of *review scope of clinical practice***

20           In this part:

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

1    **56           Approval of scope of clinical practice committees**

2           (1) The Minister may approve a committee as a scope of clinical  
3           practice committee in accordance with section 57.

4           (2) An approval is a notifiable instrument.

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

6    **57           Scope of clinical practice committees—criteria for**  
7    **approval**

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

10          (a) the committee’s functions would be facilitated by the  
11             members, and other people mentioned in section 63, being  
12             protected from liability under section 63 (Scope of clinical  
13             practice committees—protection of members etc from  
14             liability); and

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

17   **58           Scope of clinical practice committees—revocation of**  
18   **approval**

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

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

- 1     **59           Scope of clinical practice committees—functions**
- 2           (1) A scope of clinical practice committee has the following functions:
- 3               (a) to decide—
- 4                     (i) whether to credential a doctor or dentist for a health
- 5                     facility; and
- 6                     (ii) the terms on which a doctor or dentist is credentialed;
- 7               (b) to define, and review, the scope of clinical practice of a doctor
- 8               or dentist credentialed for a health facility;
- 9               (c) to review the scope of clinical practice of a doctor or dentist if
- 10               the CEO of a health facility refers the doctor or dentist’s scope
- 11               of clinical practice to the committee under section 69 (5);
- 12               (d) to immediately withdraw or amend the scope of clinical
- 13               practice of a doctor or dentist credentialed for a health facility
- 14               in accordance with this Act;
- 15               (e) any other function given to the committee under this Act.
- 16           (2) A reference in this section to credentialling a doctor or dentist
- 17           includes re-credentialling the doctor or dentist.
- 18           (3) A scope of clinical practice committee must, as far as practicable,
- 19           exercise its functions under subsection (1) (a), (b) and (c) in
- 20           accordance with the Standard.
- 21           (4) In this section:
- 22               *credential*, in relation to a doctor or dentist, means endorse the
- 23               doctor or dentist (the *practitioner*) to provide health services based
- 24               on verification and assessment of the practitioner’s qualifications,
- 25               experience, skill, professional standing and any other relevant
- 26               professional attributes.
- 27               *Standard* means the Australian Council for Safety and Quality in
- 28               Health Care, Standard for Credentialling and Defining the Scope of
- 29               Clinical Practice, published in July 2004.

- 1     **60**           **Scope of clinical practice committees—appointment of**  
2                   **members**
- 3                   The chief executive must appoint the members of a scope of clinical  
4                   practice committee.
- 5                   *Note 1*   For the making of appointments (including acting appointments), see  
6                   the Legislation Act, pt 19.3.
- 7                   *Note 2*   In particular, an appointment may be made by naming a person or  
8                   nominating the occupant of a position (see Legislation Act, s 207).
- 9                   *Note 3*   A person may be reappointed to a position if the person is eligible to be  
10                  appointed to the position (see Legislation Act, s 208 and dict, pt 1,  
11                  def *appoint*).
- 12     **61**           **Scope of clinical practice committees—disclosure of**  
13                   **interests**
- 14                   (1) Section 190 (Disclosure of interests by committee members) applies  
15                   to scope of clinical practice committees.
- 16                   (2) If a person acting under the direction of a scope of clinical practice  
17                   committee has a material interest in an issue being considered, or  
18                   about to be considered, by the committee, the person must disclose  
19                   the nature of the interest at a committee meeting as soon as  
20                   practicable after the relevant facts come to the person’s knowledge.
- 21                   (3) In this section:
- 22                   *material interest*—see section 190 (4).
- 23     **62**           **Scope of clinical practice committees—procedure**
- 24                   (1) In exercising its functions, a scope of clinical practice committee—
- 25                   (a) must comply with the rules of natural justice; and
- 26                   (b) is not bound by the rules of evidence but may inform itself of  
27                   anything in the way it considers appropriate; and
- 28                   (c) may do whatever it considers necessary or convenient for the  
29                   fair and prompt conduct of its functions.

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

3 **63 Scope of clinical practice committees—protection of**  
4 **members etc from liability**

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

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

- 14 (2) Any civil liability that would, apart from this section, attach to a  
15 relevant person for a scope of clinical practice committee attaches  
16 instead to the Territory.

- 17 (3) In this section:

18 ***relevant person***, for a scope of clinical practice committee—

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

- 1     **64           Scope of clinical practice committees—obtaining**  
2                   **information**
- 3           (1) A scope of clinical practice committee carrying out a function under  
4           this Act may ask anyone to give the committee information,  
5           including protected information, that is relevant to the committee  
6           carrying out the function.
- 7           *Note*     The identity of a person who gives information to a committee under  
8                   this section is protected (see pt 8).
- 9           (2) When asking anyone for information, the committee must tell the  
10           person that giving false or misleading information is an offence  
11           against the Criminal Code, section 338 (Giving false or misleading  
12           information).
- 13           (3) If someone gives information honestly and without recklessness to a  
14           scope of clinical practice committee under subsection (1)—
- 15           (a) the giving of the information is not—
- 16                   (i) a breach of confidence; or
- 17                   (ii) a breach of professional etiquette or ethics; or
- 18                   (iii) a breach of a rule of professional conduct; and
- 19           (b) the person does not incur civil or criminal liability only  
20           because of giving the information.

- 1     **65           Scope of clinical practice committee must give doctor or**  
2     **dentist opportunity to explain**
- 3           (1) This section applies to a scope of clinical practice committee if—
- 4               (a) the committee is reviewing the scope of clinical practice of a  
5               doctor or dentist for a health facility; and
- 6               (b) the committee proposes to recommend in a scope of clinical  
7               practice report that—
- 8                     (i) the scope of clinical practice of the doctor or dentist  
9                     should be amended or withdrawn; or
- 10                    (ii) the terms of engagement of the doctor or dentist by the  
11                    health facility should be amended; or
- 12                    (iii) the engagement of the doctor or dentist by the health  
13                    facility should be suspended or ended.
- 14           *Note*     Scope of clinical practice reports are prepared under s 67.
- 15           (2) The committee must give the doctor or dentist a written notice  
16           (a ***recommendation notice***) stating—
- 17               (a) the committee’s proposed recommendation; and
- 18               (b) the reasons for the committee’s proposed recommendation; and
- 19               (c) that the doctor or dentist may, not later than 21 days after the  
20               day the recommendation notice is given to the doctor or  
21               dentist, make a submission to the committee about the  
22               proposed recommendation.
- 23           (3) A recommendation notice must not include sensitive information.
- 24           *Note*     ***Sensitive information***—see s 124.
- 25           (4) The committee must consider any submission made by the doctor or  
26           dentist to the committee in accordance with the notice.

- 1     **66**           **Interim and emergency withdrawal or amendment of**  
2                   **scope of clinical practice by committee**
- 3           (1) If at any time a scope of clinical practice committee forms the view  
4           that the clinical practice of a doctor or dentist at a health facility  
5           poses a threat to the safety of members of the public, the committee  
6           may withdraw or amend the scope of clinical practice of the doctor  
7           or dentist with immediate effect.
- 8           (2) The scope of clinical practice committee may take action under  
9           subsection (1) before the completion of a review by the committee  
10          of the doctor or dentist’s scope of clinical practice under section 65.
- 11          (3) Any withdrawal or amendment under this section has effect until a  
12          decision of the CEO of a health facility on the scope of clinical  
13          practice report in relation to the doctor or dentist takes effect under  
14          section 71 (When CEO decision on scope of clinical practice report  
15          takes effect).
- 16          (4) If a scope of clinical practice committee withdraws or amends the  
17          scope of clinical practice of a doctor or dentist under subsection (1),  
18          the committee must tell the chief executive and the chief executive  
19          officer, Calvary (the *executive officers*) of the committee’s decision  
20          and the date of the decision, in writing, as soon as possible.
- 21          (5) If an executive officer is told about the withdrawal or amendment of  
22          the scope of clinical practice of a doctor or dentist under this  
23          section, the executive officer must tell appropriate officers under  
24          their authority or direction of the committee’s decision so that  
25          proper effect can be given to the decision.
- 26                 **Examples—appropriate officers**
- 27                 • general manager of the health facility
  - 28                 • clinical unit director
  - 29                 • head of department at health facility
  - 30                 • 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, under section 65; and
  - (b) if the committee has given the doctor or dentist a recommendation notice under section 66—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.

1     **68           Giving scope of clinical practice reports to CEO of health**  
2     **facility and doctor or dentist**

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

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

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

10    **69           CEO may make interim or emergency decision on scope**  
11    **of clinical practice**

- 12           (1) If the CEO of a health facility has concerns about a doctor or dentist  
13           for a health facility of sufficient seriousness to warrant the  
14           immediate amendment or withdrawal of the scope of clinical  
15           practice of the doctor or dentist, the CEO may, by notice in writing,  
16           amend or withdraw the scope of clinical practice of the doctor or  
17           dentist with immediate effect.
- 18           (2) The CEO may take action under subsection (1) even if a scope of  
19           clinical practice committee has not reported on, or is not currently  
20           investigating, the scope of clinical practice of the doctor or dentist.
- 21           (3) Any amendment or withdrawal of the scope of clinical practice of a  
22           doctor or dentist under this section has effect from the day and time  
23           the notice is given to the doctor or dentist—
- 24           (a) if a scope of clinical practice report is prepared under  
25           section 67 in relation to the doctor or dentist—until a decision  
26           on the scope of clinical practice report takes effect under  
27           section 71; or
- 28           (b) in any other case—until the CEO, by notice in writing, revokes  
29           the amendment or withdrawal.

- 1 (4) Subsection (5) applies if—
- 2 (a) the CEO amends or withdraws the scope of clinical practice of
- 3 a doctor or dentist under subsection (1); and
- 4 (b) the scope of clinical practice of the doctor or dentist is not the
- 5 subject of an investigation by a scope of clinical practice
- 6 committee.
- 7 (5) The CEO must immediately refer the scope of clinical practice of
- 8 the doctor or dentist to a scope of clinical practice committee.
- 9 (6) If the CEO amends or withdraws the scope of clinical practice of a
- 10 doctor or dentist under subsection (1), the CEO must, in writing,
- 11 notify—
- 12 (a) the doctor or dentist; and
- 13 (b) if the CEO is not the chief executive—the chief executive; and
- 14 (c) if the CEO is not the chief executive officer, Calvary—the
- 15 chief executive officer, Calvary; and
- 16 (d) the relevant health board for the doctor or dentist; and
- 17 (e) the health services commissioner; and
- 18 (f) the CEO of any other health facility at which the doctor or
- 19 dentist is engaged; and
- 20 (g) if a scope of clinical practice committee submitted a report
- 21 about the doctor or dentist under section 68 to the CEO—the
- 22 scope of clinical practice committee that submitted the report;
- 23 and
- 24 (h) all appropriate officers under the CEO's authority or direction
- 25 of the committee's decision so that proper effect can be given
- 26 to the decision.
- 27 **Examples—appropriate officers**
- 28 • general manager of the health facility
- 29 • clinical unit director



1 (b) the scope of clinical practice committee that prepared the scope  
2 of clinical practice report;

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

5 **Examples—appropriate officers**

- 6 • general manager of the health facility
- 7 • clinical unit director
- 8 • head of department at health facility
- 9 • immediate supervisor of doctor or dentist
- 10 • human resource personnel

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

14 (4) A scope of clinical practice executive decision notice in relation to a  
15 doctor or dentist must include the following information:

16 (a) if the doctor or dentist's scope of clinical practice is to stay the  
17 same—a statement to that effect;

18 (b) if the doctor or dentist's scope of clinical practice is to be  
19 amended—how the scope of clinical practice is being  
20 amended;

21 (c) if the doctor or dentist's scope of clinical practice is to be  
22 withdrawn—a statement to that effect;

23 (d) if the term of engagement of the doctor or dentist by a health  
24 facility is to be amended—how the term is being amended;

25 (e) if the engagement of the doctor or dentist by a health facility is  
26 to be suspended—the period for which the engagement is  
27 being suspended;

28 (f) if the engagement of the doctor or dentist by a health facility is  
29 to be ended—a statement to that effect;

1 (g) if the doctor or dentist was the subject of a decision of the CEO  
2 under section 69—a statement to that effect;

3 (h) when the decision takes effect.

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

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

8 **71 When CEO decision on scope of clinical practice report**  
9 **takes effect**

10 (1) A decision of the CEO of a health facility under section 69 or  
11 section 70 in relation to a doctor or dentist for the health facility  
12 takes effect on the later of the following:

13 (a) the day stated in the scope of clinical practice review notice for  
14 the decision;

15 (b) the day the scope of clinical practice review notice is given to  
16 the doctor or dentist.

17 (2) For subsection (1) (b), if the notice cannot be given to the doctor or  
18 dentist in person, the notice is taken to be given to the doctor or  
19 dentist 7 days after the day it is posted to his or her last known home  
20 address.

21 **72 CEO may give information about decision to health**  
22 **facility outside ACT**

23 (1) If the CEO of a health facility makes a decision under section 69 or  
24 section 70 to amend or withdraw the scope of clinical practice of a  
25 doctor or dentist, the CEO may tell the CEO of a health facility that  
26 is outside the ACT (the *other CEO*) about the amendment or  
27 withdrawal.

- 1 (2) However, the CEO may not tell the other CEO about the  
2 amendment or withdrawal, unless the other CEO asks, in writing,  
3 for information about the scope of clinical practice of the doctor or  
4 dentist.

5 **73 Request for information by health facility outside ACT**

- 6 (1) This section applies if a health facility outside the ACT  
7 (the *requesting facility*) asks the CEO of a health facility for clinical  
8 practice information about a doctor or dentist that has been the  
9 subject of a scope of clinical practice review at the health facility.
- 10 (2) The CEO must—
- 11 (a) if the request for information is in writing—forward the  
12 request within 7 days of receiving it to the scope of clinical  
13 practice committee that reviewed the doctor or dentist’s scope  
14 of clinical practice; or
- 15 (b) if the request is not in writing—tell the requesting facility as  
16 soon as practicable that the request must be made in writing.
- 17 (3) A scope of clinical practice review committee that receives a request  
18 from a CEO under subsection (2) (a) may give the requesting  
19 facility—
- 20 (a) the following information if the information formed part of the  
21 committee’s review of the doctor or dentist, and is relevant to  
22 the information asked for by the requesting facility:
- 23 (i) particulars of the complaint against the doctor or dentist;
- 24 (ii) particulars about any patients treated by the doctor or  
25 dentist;
- 26 (iii) health facility medical records;
- 27 (iv) reports from other providers of health services; and
- 28 (b) a summary of the committee’s review report into the doctor or  
29 dentist’s scope of clinical practice.

1 (4) However, any information given to a requesting facility under  
2 subsection (3) must be given in a form that does not allow a person  
3 mentioned in the information, other than the doctor or dentist  
4 reviewed by the committee, to be identified.

5 (5) In this section:

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

9 **74 Scope of clinical practice committees—giving**  
10 **information to health board and health services**  
11 **commissioner**

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

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

17 (2) If a clinical practice committee gives protected information to a  
18 health board under subsection (1), the committee must give the  
19 information to the health services commissioner.

20 (3) A scope of clinical practice committee must tell the relevant health  
21 board, and the health services commissioner, if the committee is  
22 satisfied that the clinical practice of a doctor or dentist has failed to  
23 meet the required standard of practice, or that the doctor or dentist  
24 does not satisfy the suitability to practise requirements.

25 (4) In this section:

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

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

- 1     **75           Scope of clinical practice committees—admissibility of**  
2     **evidence**
- 3           (1) The following are not admissible as evidence in a proceeding before  
4           a court:
- 5                   (a) an oral statement made in a proceeding before a scope of  
6                   clinical practice committee;
- 7                   (b) a document given to a scope of clinical practice committee, but  
8                   only to the extent that it was prepared only for the committee;
- 9                   (c) a document prepared by a scope of clinical practice committee.
- 10          (2) In this section:
- 11               *court* includes a tribunal, authority or person with power to require  
12               the production of documents or the answering of questions.
- 13     **76           Sharing information with other committees**
- 14               A scope of clinical practice committee may share the following  
15               information, including protected information, with another scope of  
16               clinical practice committee or a quality assurance committee:
- 17                   (a) any information that comes before the committee in the course  
18                   of its functions;
- 19                   (b) a decision of a CEO under section 69 or section 70 that related  
20                   to a recommendation made by the committee.
- 21     **77           Sharing information with 3rd parties**
- 22           (1) This section applies if—
- 23                   (a) the CEO of a health facility makes a decision, under section 69  
24                   or section 70, to amend or withdraw the scope of clinical  
25                   practice of a doctor or dentist; and
- 26                   (b) a person asks for information about the decision.

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

4 *Note Sensitive information*—see s 124.

5 **78 Complainants to remain anonymous**

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

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

16 **14 Who is an *information holder*?**  
17 **Section 122 (a) (ii), (iii) and (iv)**

18 *substitute*

- 19 (ii) a member of a scope of clinical practice committee; or  
20 (iii) someone else exercising a function under part 4 (Quality  
21 assurance) or part 5 (Reviewing scope of clinical  
22 practice); or  
23 (iv) someone else engaged in the administration of part 4  
24 (Quality assurance) or part 5 (Reviewing scope of clinical  
25 practice); or

1 **15 Section 122 (b), note, 4th and 5th dot points**

2 *substitute*

- 3 • s 45 (Quality assurance committees—giving information to
- 4 health board and health services commissioner).
- 5 • s 74 (Scope of clinical practice committees—giving
- 6 information to health board and health services
- 7 commissioner).

8 **16 What is sensitive information?**  
9 **Section 124, definition of sensitive information,**  
10 **paragraph (a) (iv)**

11 *substitute*

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

17 **17 Review of decisions**  
18 **Section 130 (a)**

19 *substitute*

- 20 (a) to amend or withdraw the scope of clinical practice of the
- 21 doctor or dentist; or

1 **18 New section 189**

2 *in part 15, insert*

3 **189 Protection of doctor or dentist from liability in emergency**

4 (1) A doctor or dentist for a health facility does not incur personal civil  
5 liability for an act done or omission made that falls outside the  
6 doctor or dentist's scope of clinical practice at the health facility if  
7 done or made honestly and without recklessness to assist, or give  
8 advice about the assistance to be given to, a person who is  
9 apparently—

10 (a) injured or at risk of being injured; or

11 (b) in need of emergency medical assistance.

12 (2) However, the protection does not apply if—

13 (a) there is in force a professional indemnity insurance  
14 arrangement that covers the liability; or

15 (b) the doctor or dentist's capacity to exercise appropriate care and  
16 skill was, at the relevant time, significantly impaired by a  
17 recreational drug.

18 (3) In this section:

19 *recreational drug* means a drug consumed voluntarily for  
20 non-medicinal purposes, and includes alcohol.

1 **19 Disclosure of interests by committee members**  
 2 **Section 190 (1), note 1**

3 *substitute*

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

7 **20 New part 22**

8 *insert*

9 **Part 22 Transitional—Health Amendment**  
 10 **Act 2011**

11 **255 Definitions—pt 22**

12 In this part:

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

17 *commencement day* means the day the *Health Amendment Act*  
 18 *2011*, section 9 commences.

19 **256 Transitional—quality assurance committee already**  
 20 **appointed**

21 If a quality assurance committee was approved under section 25,  
 22 section 26 or section 27, as in force immediately before the *Health*  
 23 *Amendment Act 2011*, section 6 commences, the approval expires  
 24 3 years after the commencement day.

- 1     **257       Transitional—clinical privileges—review not begun**
- 2             (1) This section applies if, before the commencement day—
- 3                     (a) a clinical privileges committee has decided to review the
- 4                             clinical privileges of a doctor or dentist for a health facility;
- 5                             and
- 6                     (b) the committee has not begun the review.
- 7             (2) The decision of the clinical privileges committee to review the
- 8                     clinical privileges of the doctor or dentist is taken to be a decision of
- 9                     a scope of clinical practice committee to review the scope of clinical
- 10                     practice of the doctor or dentist under section 59 (1) (b) (Scope of
- 11                     clinical practice committees—functions).
- 12     **258       Transitional—clinical privileges—review begun**
- 13             (1) This section applies if, before the commencement day—
- 14                     (a) a clinical privileges committee has decided to review the
- 15                             clinical privileges of a doctor or dentist for a health facility;
- 16                             and
- 17                     (b) the committee has begun the review.
- 18             (2) The Act, as in force immediately before the commencement day,
- 19                     continues to apply to the following:
- 20                     (a) the review, and any reporting and information sharing
- 21                             requirements that apply to the committee after the completion
- 22                             of the review;
- 23                     *Note*     Pt 5, as in force immediately before the commencement day,
- 24                             required the committee to report to the CEO of the health facility,
- 25                             and prevented the committee giving information to a health board
- 26                             unless the information facilitated the improvement of health
- 27                             services in the ACT.
- 28                     (b) the requirement for the CEO of the health facility to make a
- 29                             decision on a report of the committee;

1 (c) the decision of the CEO on the report.

2 **259 Transitional—clinical privileges committees—**  
3 **admissibility of evidence**

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

7 **260 Expiry—pt 22**

8 This part expires 1 year after the commencement day.

9 **21 Dictionary, new definition of *chief executive officer,***  
10 ***Calvary***

11 *insert*

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

16 **22 Dictionary**

17 *omit the definitions of*

18 *clinical privileges*

19 *clinical privileges committee*

20 *clinical privileges report*

21 *clinical privileges review notice*

22 **23 Dictionary, new definition of *council***

23 *insert*

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

- 1 **24 Dictionary, definition of *dentist***
- 2 *substitute*
- 3 *dentist*, for a health facility, for part 5 (Reviewing scope of clinical  
4 practice)—see section 52.
- 5 **25 Dictionary, definition of *doctor***
- 6 *substitute*
- 7 *doctor*, for a health facility, for part 5 (Reviewing scope of clinical  
8 practice)—see section 52.
- 9 **26 Dictionary, definition of *hospital***
- 10 *substitute*
- 11 *hospital*, for part 5 (Reviewing scope of clinical practice)—see  
12 section 50.
- 13 **27 Dictionary, new definition of *local hospital network***
- 14 *insert*
- 15 *local hospital network*—see section 8.
- 16 **28 Dictionary, definition of *review***
- 17 *substitute*
- 18 *review*, in relation to the scope of clinical practice, for part 5  
19 (Reviewing scope of clinical practice)—see section 55.
- 20 **29 Dictionary, new definitions**
- 21 *insert*
- 22 *scope of clinical practice*, of a doctor or dentist, for a health facility,  
23 for part 5 (Reviewing scope of clinical practice)—see section 54.
- 24 *scope of clinical practice committee*—see section 51.

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

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

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## Endnotes

**1        Presentation speech**

Presentation speech made in the Legislative Assembly on        2011.

**2        Notification**

Notified under the Legislation Act on                                2011.

**3        Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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