

1998

**THE LEGISLATIVE ASSEMBLY
AUSTRALIAN CAPITAL TERRITORY**

HEALTH (AMENDMENT) BILL 1998

**EXPLANATORY MEMORANDUM
FOR THE GOVERNMENT AMENDMENTS
TO THE HEALTH (AMENDMENT) BILL 1998**

**Circulated by authority of the
Minister for Health and Community Care
Michael Moore MLA**

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EXPLANATORY MEMORANDUM FOR THE GOVERNMENT AMENDMENTS TO THE BILL

The *Health (Amendment) Bill 1998* amends the *Health Act 1998* by adding a set of provisions which regulate the establishment and conduct of quality assurance committees in private health facilities. It provides protection from litigation to members of those committees in relation to their conduct as members of the committees.

The Standing Committee on Justice and Community Safety commented on the Bill, and in response the government's amendments apply to a proposed section 11 (Clause 11) and section 13AG (Clause 15) of the Bill.

They clarify:

- the scope of oral and written evidence which is protected from being admissible in proceedings other than before the quality assurance committees, and
- the type of proceedings to which such protection applies.

The Bill, as amended, specifies that no oral statement made in proceedings before an approved public or private sector committee is admissible as evidence in proceedings before a court, tribunal, board or person.

The amendments also specify that a document which was prepared solely for the purposes of an approved public or private sector committee and was produced to the committee, or has been prepared by an approved public or private committee, is not admissible as evidence in proceedings before a court, tribunal, board or person.

Under the *Bill*, a 'document' includes any part of a document, any copy, reproduction or duplicate of a document or of any part of a document, and any part of such copy, reproduction or duplicate.

Health Professional (Special Events Exemptions) Bill 2000

Supplementary Explanatory Memorandum

Outline

Clause 3

Definition of *restricted substance*

This amendment is for the purposes of expanding the definition of a '*restricted substance*' provided in the Bill and also to include substances that are referred to as restricted substances under poisons legislation in the ACT.

The Bill provides that a visiting health professional may be authorised to issue a written prescription for a restricted substance. The Bill also provides that a supplier or a class of suppliers may be authorised to supply a restricted substance.

Under the definition proposed in the Bill a restricted substance only referred to substances that are restricted under the *Drugs of Dependence Act 1989*. This amendment however expands this definition, in line with the policy intent of the Bill, to also include certain substances that are restricted under the *Poisons and Drugs Act 1978* and the *Poisons Act 1933*.

This amendment will permit authorised visiting health professionals being able to additionally prescribe Schedule 4 (prescription only) substances and an authorised pharmacist being able to fill such prescriptions.

Clause 8

Subclause (3)

This amendment is for the purposes of providing enhanced clarity as to the authorised possession and supply of substances that are termed prohibited substances.

The existing clause 8(3) sought to qualify that a health care service permitted at 8(1) did not involve the possession or supply of substances that otherwise could not be provided by a locally registered practitioner. A review of this provision has suggested that it may lack clarity and not adequately indicate that visiting health professionals are not to possess or supply substances that are termed 'prohibited' under a Drug Regulation Act.

The proposed amendment to clause 8(3) now makes it abundantly clear that the provision of a health care service by a visiting health professional is not to include or involve the possession or supply of prohibited substances.

The prohibited substances referred to in this clause, are those referred to in clause 3(1) of the *Drugs of Dependence Act 1989* and set out in Schedule 2 of the Drugs of Dependence Regulations.

Financial implications

There are no financial implications arising from either of these amendments.

Clause 3

Definition of a *restricted substance*

This amendment omits the definition provided in the Bill for a *restricted substance*, and substitutes an expanded definition to include substances that are restricted under ACT Poisons legislation.

Clause 8(3)

This amendment omits the existing clause and substitutes a more rigorous provision clarifying that a health care service provided under the authority of this Bill does not include the possession or supply of a prohibited substance.