2006

THE LEGISLATIVE ASSEMBLY OF THE AUSTRALIAN CAPITAL TERRITORY

HEALTH LEGISLATION AMENDMENT BILL 2006

EXPLANATORY STATEMENT

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Outline

This Explanatory Statement relates to the *Health Legislation Amendment Bill 2006* (the Bill) as enacted by the Legislative Assembly for the Australian Capital Territory. The Bill makes amendments to laws in the Australian Capital Territory relating to health.

The purpose of the Bill is to make changes to the establishment, procedures and privileges of quality assurance committees and clinical privileges committees established under the *Health Act 1993 (ACT),* particularly in respect of disclosure of information.

The Bill amalgamates parts 3 and 4 (which deal with public and private quality assurance committees), removing unnecessary distinctions between public and private quality assurance committees. This aims to ensure quality assurance committees are only established if appropriate and do not continue in existence if they do not function properly.

The Bill will also introduce amendments to the *Health Professionals Act 2004* to postpone the default commencements provisions for six months.

In addition, the Bill ensures quality assurance committees report appropriately, are run appropriately and are accountable; and addresses concerns about confidentiality and disclosure, in particular in relation to disclosure of information by previous members of committees and persons assisting or associated with committees, to courts and to health profession boards.

The bill contains restrictions on the admissibility of protected information and statements given and documents prepared in relation to Quality Assurance Committees and Clinical Privileges Committees. These restrictions will engage the right to privacy and the right to fair trial in the Human Rights Act 2004

Appropriate limitations on disclosure of information are required in the context of the functions and powers within the bill to obtain and create documents relating to individuals. However, the right to privacy must be balanced against the right of a party to a civil or criminal proceeding to access this information where appropriate.

The right to privacy is safeguarded by the requirement that disclosure of protected information must be necessary for the purpose of the Act. Moreover, information held by Quality Assurance and Clinical Privileges Committees, in the form of oral statements and admissions, reports and opinions cannot be divulged to a court or tribunal. Other information held by Quality Assurance Committees may only be

disclosed to the Coroner's Court if it is likely to facilitate the improvement of health services in the ACT.

The right to a fair trial is safeguarded by the fact that most of the information available to Quality Assurance and Clinical Privileges Committees will be available from other sources that are subject to the powers of courts and tribunals to compel disclosure.

On this basis, the restrictions on disclosure to courts and tribunals are a reasonable limitation on the right to privacy and the right to fair trial in the *Human Rights Act 2004.*

Formal Clauses

Part 1 - Preliminary

Clause 1 sets out the name of the Act "*Health Legislation Amendment Act 2006*".

Clause 2 provides that the Amended Act will commence on a day fixed by the Minister by written notice. The naming and commencement provisions will automatically commence on the notification day, as set out in s 75(1) of the *Legislation Act 2001*. The provisions for commencement as set out in section 77 of the *Legislation Act 2001* will also apply.

If the Minister does not commence the Amended Act six months after the Amended Act is notified on the Legislation register, then the Act automatically commences the following day. The provisions for automatic commencement are set out in section 79 of the *Legislation Act 2001.*

Part 2 - *Health Act 1993*

Clause 3 provides that Part 2 of this Act amends the *Health Act 1993 (ACT).*

Clause 4 amends section 2 of the *Health Act 1993 (ACT)* by inserting a new example in Note 1. The new example replaces the example of the definition of 'prescribed body' with the example definition of 'health professional'. The purpose of this is to simplify the example.

Part 2 - Important Concepts

The new Part 2 sets out definitions for "health service", "health facility" and "health service provider".

The previous section 4, which provided for the declaration of quality assurance activity, is repealed. The previous Part 2, which set out Health Care Principles, has been renumbered as Part 3.

Clause 5 defines the term health service as a service provided to someone (the service user) for assessing, recording, maintaining or improving the physical, mental or emotional health, comfort or wellbeing of the service user, or, diagnosing, treating or preventing an illness, disability, disorder or condition of the service user.

Clause 6 re-defines the term health facility to provide clear examples of the types of facilities this encompasses. A health facility means a hospital, including a day hospital, a hospice, a nursing home, a health professional's consulting room, another facility ordinarily used by the Territory to provide health services, or any other facility prescribed by regulation for this section.

Clause 7 re-defines the term health service provider to clarify the meaning of the term. A health service provider is defined as a health professional or other person who provides a health service. A health service provider, for a health facility, means a health service provider who provides a health service or who uses the equipment or other facilities of a health facility to provide a health service elsewhere. This Amended Act also provides a non-exhaustive list of examples of people who may be health service providers. This includes chiropractors, dentists, dental technicians, dental prosthetist, doctors, nurses, osteopaths, optometrists, pharmacists and physiotherapists.

Part 4 – Quality Assurance

This replaces parts 3 to 5 of the *Health Act 1993*. The purpose of this change is to define the relationship of qualified privilege provisions to other legislation, in addition to redefining quality assurance provisions. In particular, these sections make changes to the establishment, procedures and privileges of quality assurance committees in respect of the disclosure of information.

The new Part 4 will deal with quality assurance, and sets out the process for establishing quality assurance committees (Division 4.2), the process the committees are to follow in assessing and evaluating health services (Division 4.3), reporting (Division 4.4) and information sharing (Division 4.5) obligations.

Division 4.1 - Quality assurance – important concepts

Clause 20 sets out where the definitions for this part can be found.

Clause 21 provides a definition of a health professional organisation for part 4 of this Amended Act, which includes associations, society, college, faculty and other bodies of health professionals who provide health services. This allows for quality assurance to effectively operate in other areas where health services are provided.

Clause 22 clarifies the meaning of a CEO in relation to a health facility. The new definition covers organisations that use different terminology to describe the person with overall responsibility of the facility.

The new section provides that, for a health service operated by the Territory, the CEO will be the chief executive. In any other case, the CEO will be the person with overall responsibility for the control of the health facility.

Clause 23 clarifies the meaning of who a CEO is in relation to a health professional organisation. It describes the person with overall responsibility of the facility and allows for the term to more clearly and effectively apply to organisations which use different terminology.

Division 4.2 - Quality assurance – quality assurance committees

Clause 24 defines the types of quality assurance committees to which this Amended Act applies, to include a health facility QAC, a health professional organisation QAC or a special purpose QAC.

Clause 25 will enable the Minister to approve a committee as a quality assurance committee for a stated health facility. It also provides for certain procedures to be followed as set out in part 9 of this Amended Act when undertaking this task, including approval by a notifiable instrument.

Clause 26 will allow for the Minister to approve a committee as a quality assurance committee for a health professional organisation. It also provides for certain procedures to be followed when undertaking this task, as set out in part 9 of this Amended Act, including approval by a notifiable instrument.

Clause 27 will enable the Minister to approve a committee as a quality assurance committee for a special purpose. It also provides for certain procedures to be followed when undertaking this task, as set out in part 9 of this Amended Act, including approval by a notifiable instrument.

Clause 28 sets out the criteria that need to be met in order for the Minister to approve a committee as a quality assurance committee, under sections 25, 26 and 27 of this Amended Act. This clause provides that the Minister must be satisfied that the committees functions would be facilitated by the members, or anyone engaging in conduct under the direction of a member, being protected from liability under section 34 of this Amended Act. In addition to this, the Minister must be satisfied that it is in the public interest for the provisions on Secrecy to apply to information held by the committee members. The purpose of this section is to ensure that there are strict criteria in place for approval of quality assurance committees.

Clause 29 provides for the Minister to revoke the approval of a committee as a quality assurance committee. It sets out the circumstances in which the Minister may make such a decision, including where the committee does not meet the criteria outlined in section 28 of this Amended Act, or has failed to prepare reports or carry out their duties under sections 28, 39, 41 and 42 of this Amended Act. It also provides for certain procedures to be followed when exercising a power under this section.

Clause 30 re-defines the functions of quality assurance committees as being to facilitate the improvement of health services provided in the ACT, as well as any other functions that are given to the committee under this Amended Act. This re-definition ensures that committees are not limited in the activities that they need to undertake to facilitate health improvements.

Clause 31 provides that a CEO of a health facility must appoint the members of a health facility quality assurance committee for the health facility. A CEO of a health professional organisation must appoint the members of a health professional organisation quality assurance committee for the health professional organisation. A chief executive must appoint the members of a special purpose quality assurance committee. When making these appointments, regard must be had to the *Legislation Act 2001*.

Clause 32 provides that section 133 (Disclosure of interest by committee members) of this Amended Act applies to members of quality assurance committees. Where a person who is acting under the direction of a quality assurance committee, has a material interest in an issue being, or about to be, considered by the committee, the nature of that interest must be disclosed at that committee meeting as soon as practicable after the relevant facts come to the person's knowledge.

Clause 33 sets out the procedures that a quality assurance committee is bound to comply with when exercising its functions.

It must comply with the rules of natural justice. A committee is not bound by the rules of evidence, and may inform itself of anything in the way it considers appropriate. In addition, the committee may do whatever it considers necessary or convenient for the fair and prompt conduct of its functions.

The purpose of this section is to clarify and describe the way in which quality assurance committees are required to exercise their functions. This allows for increased transparency and certainty.

Clause 34 is designed to ensure that a relevant person who is or has been a member of a quality assurance committee, or anyone engaging in conduct under the direction of a member, is not personally liable for anything done or omitted to be done honestly and without recklessness, in the exercise of a function under this

Amended Act, or in the reasonable belief that the act or omission was in the exercise of a function under this Amended Act.

The section also transfers civil liability that would otherwise attach to a relevant person of a quality assurance committee, to the health facility, health professional organisation, or in the case of a special purpose QAC to the Territory. This expands upon and amalgamates the protection that was previously available under the *Health Act 1993.*

Clause 35 will enable a quality assurance committee carrying out a function under this Amended Act to ask anyone to give the committee information (including protected information) that is relevant to the committee carrying out its function. When asking for information the committee must tell people that giving false or misleading information is an offence against the Criminal Code, section 338. This clause also provides that if a person gives information honestly and without recklessness, than the giving of that information is not a breach of confidence, professional etiquette or ethics, or a breach of a rule of professional conduct. The person also does not incur civil or criminal liability only because of giving the information.

Division 4.3 - Assessment and evaluation of health services

Clause 36 allows for quality assessment committees to assess, evaluate and carry out quality assurance activities, on the health services that are provided by the particular organisation to which the QAC belongs. Quality assurance activities are defined in section 37.

Clause 37 provides that 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 health services. Examples of quality assurance activities include clinical and record audits, peer review, quality review and investigating disease and death.

Clause 38 sets out the requirement on quality assurance committees to prepare a health service report after completing an assessment and evaluation under section 36. The health service report must include the details of the health services assessed and evaluated, the results of the assessment and evaluation, the committee's conclusions, and the committee's recommendations if there are any. The purpose of this section is to ensure that all actions that are undertaken by quality assurance committees are thoroughly documented so that any necessary improvements to health facilities are made.

Clause 39 provides that after preparing a health services report, the quality assurance committee must give a copy of the report as soon as possible to the CEO of the health facility, health professional organisation, or special purpose facility, for which the report was prepared.

Clause 40 provides that where a quality assurance committee makes a recommendation in a health services report, the committee may monitor the implementation of the recommendation. This section is designed to ensure that recommendations are followed up on.

Division 4.4 - Quality assurance committees – reporting

Division 4.4 is designed to set out the reporting obligations on quality assurance committees. These provisions outline the requirements of annual and other reports, and indicate the types of information that should and should not be included in these reports.

Clause 41 provides that for each financial year a quality assurance committee must prepare a ministerial report about the operation of the committee during that year. This report must include information for the financial year about the committee's functions in assessment and evaluation of health services, about how the committee's functions were facilitated by the members and others engaging in conduct under the direction of the members. It should also include information about why it was in the public interest for part 8 (Secrecy) to apply to information held by the committee members. This section also stipulates that a ministerial report must not include sensitive information. The report relating to each financial year must comply with any requirements prescribed by regulation for this section and must be provided within three months of the end of each financial year to the Minister.

Clause 42 provides what information should be included, when a quality assurance committee is required by regulation of this section to prepare a report. The report must include information about the operation of the committee, how the committee's functions were facilitated by the members and other persons under section 34 and why it was in the public interest for part 8 (Secrecy) to apply to information held by committee members. This section also stipulates that a report prescribed by regulation for this section must not include sensitive information.

Division 4.5 - Quality assurance committees – information sharing

Clause 43 provides that a quality assurance committee must not give protected information, including sensitive information, to the Coroner's Court, unless the committee is satisfied that giving the information would be likely to facilitate the improvement of health services in the ACT.

Clause 44 provides that a quality assurance committee must not give protected information, including sensitive information, to another quality assurance committee, unless it is satisfied that giving the information would be likely to facilitate the improvement of health services in the ACT.

Clause 45 provides that a quality assurance committee must not give protected information, including sensitive information, to a health profession board, unless it is satisfied that giving the information would be likely to facilitate the improvement of health services in the ACT.

Clause 46 provides that a quality assurance committee must not give protected information to the Minister unless the information is not sensitive information, and the committee is satisfied that giving the information would be likely to facilitate the improvement of health services provided in the ACT.

Clause 47 details the limitations that are to be placed on evidence prepared for and by quality assurance committees, in terms of their admissibility in court proceedings. An oral statement made in a proceeding before a quality assurance committee will not be admissible as evidence in a proceeding before a court. Nor will a document given to a quality assurance committee, but only to the extent that it was prepared only for the committee. A document prepared by a quality assurance committee will also not be admissible as evidence in a proceeding before a court. The term court in this section includes a tribunal, authority or person with power to require the production of documents or the answering of questions.

Part 5 – Reviewing clinical privileges

The new Part 5 sets out the process for reviewing clinical privileges. Part 5 specifies the process for the establishment of a clinical privileges committee, the process to be followed when investigating a doctor or dentist's clinical privileges, the reporting obligations of the committee and the decision-making obligations of the CEO.

The purpose of part 5 of this Amending Act is to replace part 5 of the *Health Act 1993*. The new part 5 provides clear distinctions and definitions of the role and meaning of clinical privileges. Part 5 sets out the functions and procedures that need to be followed, as well as detailing reporting requirements and how decisions are to be made.

Clause 50 sets out where the definitions for part 5 can be found.

Clause 51 defines clinical privileges committee to mean a committee approved under section 56 as a clinical privileges committee.

Clause 52 provides that a doctor or dentist, for a health facility, means a doctor or dentist who provides health services at the health facility or who uses the equipment or other facilities of the health facility to provide health services elsewhere.

Clause 53 clarifies the meaning of a CEO in relation to a health facility. A CEO for a health facility operated by the Territory is the chief executive. In any other case, the CEO is the person with overall responsibility for control of the health facility.

Clause 54 defines the clinical privileges of a doctor or dentist, to mean the rights of the doctor or dentist to treat patients or carry out other procedures at the health facility, or to use the equipment or other facilities of the health facility.

Clause 55 provides that the meaning of review of clinical privileges includes assess and evaluate clinical privileges.

Clause 56 enables the Minister to approve a stated committee as a clinical privileges committee. An approval is a notifiable instrument, in respect of which certain procedures must be followed.

Clause 57 sets out the criteria that need to be met in order for the Minister to approve a clinical privileges committee under section 56 of this Amended Act. Section 57 provides that the Minister must be satisfied that the committee's functions would be facilitated by the members, or anyone engaging in conduct under the direction of a member, being protected from liability under section 63 of this Amended Act. In addition to this, the Minister must be satisfied that it is in the public interest for the provisions on Secrecy to apply to information held by the committee members. The purpose of this section is to ensure that there are strict criteria in place for approval of clinical privileges committees.

Clause 58 provides for the Minister to revoke the approval of a committee as a clinical privileges committee if the Minister is not satisfied about 1 or both of the criteria mentioned in section 57 in relation to that committee.

Clause 59 enables a clinical privileges committee to review the clinical privileges of doctors and dentists for health facilities, as well as any other function given to the committee under this Amended Act.

Clause 60 provides that the chief executive must appoint the members of a clinical privileges committee. When making this appointment, regard must be had to the *Legislation Act 2001*.

Clause 61 provides that section 133 (Disclosure of interest by committee members) of this Amended Act applies to clinical privileges committees. Where a person who is acting under the direction of a clinical privileges committee, has a material interest in an issue being, or about to be, considered by the committee, the nature of that interest must be disclosed at that committee meeting as soon as practicable after the relevant facts come to the person's knowledge.

Clause 62 sets out the procedures that a clinical privileges committee is bound to comply with when exercising its functions.

It must comply with the rules of natural justice. A committee is not bound by the rules of evidence, and may inform itself of anything in the way it considers appropriate. In addition, the committee may do whatever it considers necessary or convenient for the fair and prompt conduct of its functions.

The purpose of this section is to clarify and describe the way in which clinical privileges committees are required to exercise their functions. This allows for increased transparency and certainty.

Clause 63 is designed to ensure that a relevant person for a clinical privileges committee, being a person who is or has been a member of a clinical privileges committee, or anyone engaging in conduct under the direction of a member, are not personally liable for anything done or omitted to be done honestly and without recklessness, in the exercise of a function under this Amended Act, or in the reasonable belief that the act or omission was in the exercise of a function under this Amended Act.

The section expands upon and amalgamates the protection that was previously available under the *Health Act 1993*.

Clause 64 will enable a clinical privileges committee carrying out a function under this Amended Act to ask anyone to give the committee information (including protected information) that is relevant to the committee carrying out its function. When asking for information the committee must tell people that giving false or misleading information is an offence against the Criminal Code, section 338. The section also provides that if a person gives information honestly and without recklessness, than the giving of that information is not a breach of confidence, professional etiquette or ethics, or a breach of a rule of professional conduct. The person also does not incur civil or criminal liability only because of giving the information.

Clause 65 enables a clinical privileges committee to review the clinical privileges of a doctor or dentist for a health facility.

Clause 66 provides that in certain circumstances a clinical privileges committee must give a doctor or dentist the opportunity to explain. Clause 66 applies to a clinical privileges committee, if, when reviewing the clinical privileges or a doctor or dentist, for a health facility, the committee proposes to recommend in a clinical privileges report that the clinical privileges of the doctor or dentist should be amended or withdrawn, the terms of engagement of a doctor or dentist of a health facility should be amended, or the engagement of a doctor or dentist by a health facility should be suspended or ended.

In that case, the committee must give the doctor or dentist a written recommendation notice. That notice should inform the doctor or dentist of the committee's proposed recommendation and the reasons for the committee's proposed recommendation. The recommendation notice must also provide 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.

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

Clause 67 applies to a clinical privileges committee if the committee is reviewing the clinical privileges of a doctor or dentist, for a health facility, in accordance with sections 65 and 66 of this Amended Act, and the committee has completed the review.

The clinical privileges committee must prepare a clinical privileges report about the review.

A clinical privileges report must include the committee's recommendations about whether the clinical privileges of a doctor a dentist should stay the same, be amended or be withdrawn, whether the terms of engagement of the doctor or dentist by a health facility should be amended, or whether the engagement of the doctor or dentist by the health facility should be suspended or ended.

Clause 68 applies to a clinical privileges committee if the committee prepares a clinical privileges report about a doctor or a dentist for a health facility. Here, the clinical privileges committee must give a copy of the report to the CEO of the health facility, and the doctor or dentist, as soon as possible.

Clause 69 outlines what a CEO of a health facility must do upon receipt of a clinical privileges report.

The CEO must consider the recommendations in the clinical privileges report and decide whether to take the action recommended by the report, or any other action that the committee could have recommended under section 67(3) of this Amended Act, that the CEO considers appropriate. A decision of the CEO under this section is a reviewable decision.

Clause 70 applies if the CEO of a health facility is given a clinical privileges report about a doctor or dentist of a health facility, and decides under section 69 whether to take action on the report. In that case, the CEO must inform each doctor or dentist of a health facility whose clinical privileges will be affected by the decision of the CEO, and the clinical privileges committee that prepared the report that was considered by the CEO in making the decision.

A clinical privileges review notice is required to include information about whether the clinical privileges of a doctor or dentist are to stay the same, be amended or be withdrawn. It must also include information about whether the terms of engagement of a doctor or dentist are to be amended, suspended or ended. A clinical privileges review notice must also include information about when the decision is going to take affect. The clinical privileges review notice must comply with the code of practice under the *Administrative Appeals Tribunal Act 1989*.

Clause 71 provides that a decision of the CEO of a health facility made under section 69 of this Amended Act, in relation to a doctor or dentist of a health facility, takes affect on the later of the following days, namely the day stated in the clinical privileges review notice for the decision, the day the clinical privileges review notice is given to the doctor or dentist.

Clause 72 provides that a clinical privileges committee must not give protected information to a health professional board unless the committee is satisfied that giving the information would be likely to facilitate the improvement of health services provided in the ACT.

Clause 73 details the limitations that are to be placed on evidence prepared for clinical privileges committees, in terms of their admissibility in court proceedings. An oral statement made in a proceeding before a clinical privileges committee, or a document prepared by a clinical privileges committee, will not be admissible as evidence in a proceeding before a court. Nor will a document given to a clinical privileges committee, but only to the extent that it was prepared only for the committee. The term court in this section includes a tribunal, authority or person with power to require the production of documents or the answering of questions.

Clause 74 provides that this part applies to a doctor or a dentist for a health facility despite any term to the contrary in their engagement.

Part 8 – Secrecy

The new part 8 relates to Secrecy. It governs how protected, sensitive and other information relating to this Amended Act should be divulged or communicated. The purpose is to clarify and streamline the legislation governing such information. It aims to balance principles of confidentiality and open disclosure.

The part is designed to reinforce the confidentiality of information about third parties, and therefore to reinforce the integrity of quality assurance and clinical privileges committees. Members of Committees should be encouraged to facilitate the gathering of information regarding health topics, and may not do so if they fear that the information could be revealed in open court by another person.

Clause 120 sets out the where the definitions for part 8 can be found.

Clause 121 provides that for the purposes of part 8 references to information being divulged includes information being communicated.

Clause 122 stipulates when a person will be considered an information holder for the purposes of this Amended Act. An information holder includes where the person, is or has been, a member of a quality assurance committee or clinical privileges committee or someone else exercising a function or engaged in the administration of this Amended Act. In addition it includes a person given information under this Act by a person who is or has been a member of a quality assurance committee or clinical privileges committee or someone else exercising a function or engaged in the administration of this Amended Act.

The purpose of this section is to clarify who is bound to comply with this Amended Act.

Clause 123 defines what is to be included as protected information and includes sensitive information. Information is protected information if it is information about a person that is disclosed or obtained by an information holder because of the exercise of a function under this Amended Act.

Clause 124 explains what is considered to be sensitive information for the purposes of this Amended Act. Sensitive information means any information that identifies a person who has received or provided a health service, or has provided information to a quality assurance committee or clinical privileges committee at the committee's request or in the course of the committee carrying out the committee's functions under this Amended Act. This also includes information that would allow the identity of the person to be worked out.

Clause 125 sets out the circumstances in which an information holder will have committed an offence in relation to protected information. An offence will be committed where an information holder makes a record of protected information about someone else and is reckless about whether that information is protected information about someone else.

It is also an offence where an information holder does something that divulges information about someone else, and is reckless about it. Reckless here includes being reckless about whether the information is protected information about someone else, and by doing the thing would result in the information being divulged to another person.

The maximum penalty for committing an offence under this provision is 50 penalty units, or imprisonment for 6 months, or both.

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 under this Amended

Act, or in the exercise of a function as an information holder under this Amended Act. This section does not apply to the making of a record or the divulging of information that is not sensitive, where this was done under another territory law, or in the exercise of a function, as an information holder, under another territory law**.** This section does not apply to the divulging of information about someone with the person's agreement.

In addition, clause 125 provides that an information holder must not divulge protected information, or produce a document containing protected information, to a court, unless it is necessary to do so for this Amended Act.

For the purposes of this section, a court includes a tribunal, authority, or person with power to require the production of documents or the answering of questions. Produce in this section includes allow access to.

Clause 126 provides that 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 Medicare Australia or the auditor-general. The CEO must not give the information unless satisfied that the giving of the information would help the prevention or detection of fraud, and the Minister agrees in writing to giving the information.

Part 9 - Review of decisions

Part 9 sets out the procedure for review of decisions.

Clause 130 provides that an application may be made to the Administrative Appeals Tribunal for review of a decision of the CEO of a health facility under section 69.

The section also sets out who may bring an application for review of a decision of the Minister under section 130 (1).

Clause 131 provides that this part applies to a doctor or a dentist for a health facility despite any term to the contrary in their engagement.

Clause 190 sets out the circumstances that a member of a committee must disclose the nature of a material interest in a matter being considered by the committee.

A committee member has a material interest in an issue if the member has a direct or indirect financial interest, or an 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. An indirect interest is also defined very broadly, and may include interests of associates and related corporations.

As such, this clause sets a very high standard of disclosure. If there is any doubt as to whether a matter may be an interest in an issue, the committee member should disclose the matter and ask the committee to consider whether the member should take part in consideration of the issue.

A disclosure by a member of a committee must be recorded in the committee's minutes and, unless the committee decides otherwise, the member must not be present when the committee considers the issue, or take part in the discussion.

Part 21 – Transitional – Health Legislation Amendment Act 2006

Part 21 deals with transitional issues arising as a result of this Amended Act. The new section 242 ensures persons who were appointed as members an approved private sector committee or an approved public sector committee prior to the commencement of this Amended Act will still be considered members for the purpose of this Amended Act. Clause 243 provides that part 21 expires after a year.

Dictionary

This substitutes a new dictionary that includes a number of changes to reference numbers and new definitions.

Part 3 - *Health Professionals Act 2004*

This part amends the commencement provision of the *Health Professionals Act 2004*. If this Amended Act has not commenced before or on 9 January 2007, it automatically commences on that day.

Schedule 1 *Health Act 1993* – technical amendments

This schedule identifies the technical amendment to the *Health Act 1993* including renumbering, omittances and substitution of sections of the Act.

Schedule 2 Consequential amendments

This schedule identifies the consequential amendments to other Health legislation including substitution of sections.

Schedule 3 Instruments repealed

This schedule identifies disallowable, notifiable, and other instruments that will be repealed to allow re-approval under the new provisions.