

**2019**

**LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**HEALTH AMENDMENT BILL 2019  
REVISED EXPLANATORY STATEMENT**

**Presented by  
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## HEALTH AMENDMENT BILL 2019

### Amendment to the *Health Act 1993*

#### **Overview**

The Health Amendment Bill 2019 amends the *Health Act 1993*, part 5 to include nurse practitioners. The Health Amendment Bill 2019 also amends the *Sex Work Act 1992* to make an amendment consequential on changes to the *Health Act 1993* relating to nurse practitioners.

#### **Purpose**

The purpose of the amendments to the *Health Act 1993*, part 5 (Reviewing scope of clinical practice) is to include Nurse Practitioners as a class of health practitioners that may be reviewed and credentialed for clinical privileges by a Scope of Clinical Practice Committee.

#### **Human Rights Considerations**

During the development of the Health Amendment Bill 2019, due regard was given to its compatibility with human rights as set out in the *Human Rights Act 2004*.

#### Section 12 of the *Human Rights Act 2004* - Right to privacy and reputation

The Health Amendment Bill 2019 engages the right to privacy. Under s.52 of the Health Amendment Bill 2019, Nurse Practitioners will become a class of health practitioners that may be reviewed and credentialed for clinical privileges by a Scope of Clinical Practice Committee. In determining whether to credential a Nurse Practitioner the Committee is required to verify and assess the practitioner's qualifications, experience, skill, professional standing and any other relevant professional attributes, under s.59 of the *Health Act 1993*. For this purpose, the Committee may request information including protected information about the person, under s.64 of the *Health Act 1993*.

The right to privacy is not absolute and may be limited to the extent necessary, reasonable and proportionate to achieve a demonstrated and justifiable purpose (UN Human Rights Committee, General Comment 16). Such limits must not be 'unlawful' or 'arbitrary'. Interferences must only be authorised by precise and circumscribed law (including clear and necessary criteria) and must not give overly broad or unnecessary discretion to authorities.

Although the Clinical Practice Committee may seek personal information regarding a Nurse Practitioner, this is required to achieving the important outcome of ensuring safe, appropriate and high-quality health services that protects the public. Safeguards are included in the *Health Act 1993* to ensure that personal information is only used for a legitimate purpose and is not disclosed inappropriately. The credentialing regime already

operates in relation to dentists, doctors and eligible midwives, and Nurse Practitioners would have the same protections as these health practitioners.

### ***Outline of amendments***

#### ***Clause 1 – Name of regulation***

This clause states that the Act is the *Health Amendment Act 2019*.

#### ***Clause 2 – Commencement***

This clause states that the Act commences on the day after its notification, according to the *Legislation Act 2001* (section 75).

#### ***Clause 3 – Legislation amended***

This clause states that the Act amends the *Health Act 1993*.

#### ***Clause 4 – Definitions – pt 5, Section 50, definitions of dentist, doctor and eligible midwife***

This amendment omits the definitions of **dentist**, **doctor** and **eligible midwife** as a consequence of changes to section 52.

#### ***Clause 5 – Section 50, note***

This clause modifies the note to include that ‘Practitioner is defined for the Act in s 52’.

#### ***Clause 6 – Section 52***

This amendment revises section 52 to replace the definitions of **dentist**, **doctor** and **eligible midwife** (which are currently defined for the whole of part 5) with a definition of **practitioner**, for a health facility, to improve the readability of part 5. The term **practitioner** is defined to mean a dentist, doctor, eligible midwife or nurse practitioner. A new subsection (2) is included in section 52 which defines **dentist**, **doctor**, **eligible midwife** and **nurse practitioner** for section 52 only. As a consequence of including nurse practitioners in the definition of **practitioner**, nurse practitioners are included as a class of health practitioners that may be reviewed and credentialed for clinical privileges by a Scope of Clinical Practice Committee, under section 59.

#### ***Clause 7 – Scope of clinical practice committees—functions, Section 59 (4), definition of credential***

The amendment is consequential on the changes to section 52 made by another amendment.

#### ***Clause 8 – Complainants to remain anonymous Section 78 (a)***

The amendment is consequential on the changes to section 52 made by another amendment.

Clause 9 - Dictionary, note 2

Dictionary, note 2 lists examples of terms used in the Act that are defined in the [Legislation Act](#), dictionary, part 1. This amendment inserts terms that are mentioned in the *Health Act 1993* and defined in the Legislation Act, dictionary, part 1.

Clause 10 - Dictionary, definitions of dentist, doctor and eligible midwife

This clause omits the definitions of dentist, doctor and eligible midwife as a consequence of the changes made to section 52 by another amendment.

Clause 11 - Dictionary, new definition of practitioner

This amendment inserts a signpost definition for practitioner, as a consequence of the changes made to section 52 by another amendment.

Clause 12 - Further amendments, mentions of doctor, dentist or eligible midwife

This clause substitutes the mentions of doctor, dentist or eligible midwife with the term 'practitioner' as a consequence of the changes made to section 52 by another amendment.

Clause 13 - Further amendments, mentions of doctors, dentists or eligible midwives

This clause substitutes the mentions of doctors, dentists or eligible midwives with the term 'practitioner's' as a consequence of the changes made to section 52 by another amendment.

Clause 14 - Sex Work Act 1992, Section 2, note 1

This is a technical amendment that updates the *Sex Work Act 1992*, section 2, note as a consequence of changes to the *Health Act 1993* relating to nurse practitioners. The note had previously referred to a definition of 'authorised nurse practitioners' in the *Health Act 1993*, however, that definition was omitted in 2017.