



Australian Capital Territory

Health Amendment Act 2011

A2011-11

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Australian Capital Territory

Health Amendment Act 2011

A2011-11

An Act to amend the *Health Act 1993*

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

1 Name of Act

This Act is the *Health Amendment Act 2011*.

2 Commencement

- (1) This Act (other than sections 4 and 5) commences on the day after its notification day.
- (2) Sections 4 and 5 commence on 1 July 2011.

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

3 Legislation amended

This Act amends the *Health Act 1993*.

4 New section 8

in part 2, insert

8 What is the *local hospital network*?

In this Act:

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

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

5 New part 3A

insert

Part 3A Local Health and Hospitals Network

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

13 Local Hospital Network Council

The Local Hospital Network Council is established.

14 Functions of council

- (1) The function of the council is to advise the chief executive about the following:
 - (a) the clinical and corporate governance framework needed to support the maintenance and improvement of standards of patient care and services under the local hospital network;
 - (b) strategies and methods—
 - (i) to support the efficient and economic operation of the local hospital network; and
 - (ii) to ensure the network manages its budget to meet performance targets; and
 - (iii) to ensure that network resources are applied equitably to meet the needs of the community; and
 - (iv) to promote cooperation between health facilities;

- (c) ways in which to support, encourage and facilitate community and clinician involvement in the planning of services that form part of the local hospital network;
 - (d) the local hospital network's policies, plans and initiatives for the provision of health services;
 - (e) any other matter prescribed by regulation.
- (2) The council may exercise any other function given to it under this Act, by regulation or another territory law.

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

15 Council report to Minister etc

- (1) The council must give a report to the Minister each financial year on the following matters:
- (a) the state of the local hospital network;
 - (b) any recommendations relating to the improvement of health services by the local hospital network that the council considers necessary.
- (2) Before giving a report, the council must consult with the community about any issues affecting the satisfactory delivery of health services, and the overall performance of the local hospital network at least once for the financial year to which the report relates.
- (3) In addition, the council must provide a report to the Minister as soon as practicable after the end of each quarter with details of progress the council has made for each of its functions and any other significant developments during the quarter.
- (4) The Minister must, within 6 sitting days after the day a report under subsection (1) is given to the Minister, present the report to the Legislative Assembly.

16 Membership of council

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

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

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

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

17 Members of council

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

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

18 Chair and deputy chair

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

19 Term of appointment of members

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

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

19A Ending of appointment of members

The Minister may end the appointment of a member—

- (a) for misbehaviour or physical or mental incapacity; or
- (b) if the member is absent for 3 consecutive meetings of the council without reasonable excuse; or
- (c) if the member is convicted or found guilty of an indictable offence; or
- (d) if the member fails to comply with section 19E (Council—disclosure of interests) without reasonable excuse.

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

19B Conditions of appointment generally

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

Division 3A.2 Proceedings of council

19C Time and place of meetings of council

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

19D Procedures governing proceedings of council

- (1) The chair presides at all meetings of the council at which the chair is present.
- (2) If the chair is absent, the deputy chair presides.
- (3) If the chair and deputy chair are both absent, the member chosen by the members present presides.
- (4) Business may be carried out at a meeting of the council only if 6 members are present.
- (5) At a meeting of the council each member has a vote on each question to be decided.

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

19E Council—disclosure of interests

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

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

Division 3A.3 Review of pt 3A

19F Review of pt 3A

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

6 New section 27A

insert

27A Quality Assurance Committees—term

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

7 New sections 38A and 38B

insert

38A Extraordinary reports

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

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

Note *Sensitive information*—see s 124.

38B Interim reports

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

Note *Sensitive information*—see s 124.

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).

46 Quality assurance committees—giving information to Minister

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

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

9 Part 5 heading

substitute

Part 5 Reviewing scope of clinical practice

**10 Definitions—pt 5
Section 50**

omit the definitions of
clinical privileges
clinical privileges report
clinical privileges review notice

11 Section 50, definition of *review* and note

substitute

review, in relation to scope of clinical practice—see section 55.
scope of clinical practice, of a doctor or dentist for a health facility—see section 54.
scope of clinical practice executive decision notice—see section 70.

scope of clinical practice report—see section 67.

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

12 Section 51

substitute

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

In this Act:

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

13 Sections 54 to 74

substitute

54 What is *scope of clinical practice*?

In this part:

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

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

55 Meaning of *review scope of clinical practice*

In this part:

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

56 Approval of scope of clinical practice committees

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

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

57 Scope of clinical practice committees—criteria for approval

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

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

58 Scope of clinical practice committees—revocation of approval

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

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

59 Scope of clinical practice committees—functions

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

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

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

60 Scope of clinical practice committees—appointment of members

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

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

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

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

61 Scope of clinical practice committees—disclosure of interests

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

62 Scope of clinical practice committees—procedure

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

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

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

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

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

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

64 Scope of clinical practice committees—obtaining information

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

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

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

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

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

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

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

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

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

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

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

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

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

Examples—appropriate officers

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

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

67 Preparing scope of clinical practice reports

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

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

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

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

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

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

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

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

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

Examples—appropriate officers

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

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

70 CEO must make decision on scope of clinical practice report

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

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

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

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

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

Examples—appropriate officers

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

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

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

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

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

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

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

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

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

73 Request for information by health facility outside ACT

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

- (5) In this section:

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

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

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

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

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

- (4) In this section:

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

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

75 Scope of clinical practice committees—admissibility of evidence

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

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

76 Sharing information with other committees

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

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

77 Sharing information with 3rd parties

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

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

Note *Sensitive information*—see s 124.

78 **Complainants to remain anonymous**

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

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

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

substitute

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

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

substitute

- s 45 (Quality assurance committees—giving information to health board and health services commissioner).
- s 74 (Scope of clinical practice committees—giving information to health board and health services commissioner).

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

substitute

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

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

substitute

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

18 New section 189

in part 15, insert

189 Protection of doctor or dentist from liability in emergency

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

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

substitute

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

20 New part 22

insert

**Part 22 Transitional—Health Amendment
Act 2011****255 Definitions—pt 22**

In this part:

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

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

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

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

257 Transitional—clinical privileges—review not begun

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

258 Transitional—clinical privileges—review begun

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

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

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

259 Transitional—clinical privileges committees—admissibility of evidence

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

260 Expiry—pt 22

This part expires 1 year after the commencement day.

21 Dictionary, note 2

insert

- sitting day

22 Dictionary, new definition of *chief executive officer, Calvary*

insert

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

23 Dictionary

omit the definitions of

clinical privileges

clinical privileges committee

clinical privileges report

clinical privileges review notice

24 Dictionary, new definition of *council*

insert

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

25 Dictionary, definition of *dentist*

substitute

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

26 Dictionary, definition of *doctor*

substitute

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

27 Dictionary, definition of *hospital*

substitute

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

28 Dictionary, new definition of *local hospital network*

insert

local hospital network—see section 8.

29 Dictionary, definition of *review*

substitute

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

30 Dictionary, new definitions

insert

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

scope of clinical practice committee—see section 51.

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

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

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 17 February 2011.

2 Notification

Notified under the Legislation Act on 12 April 2011.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Health Amendment Bill 2011, which was passed by the Legislative Assembly on 29 March 2011.

Clerk of the Legislative Assembly

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