



Australian Capital Territory

Senior Practitioner Amendment Act 2019

A2019-16

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J2018-791

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

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Australian Capital Territory

Senior Practitioner Amendment Act 2019

A2019-16

An Act to amend the *Senior Practitioner Act 2018*

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

1 Name of Act

This Act is the *Senior Practitioner Amendment Act 2019*.

2 Commencement

- (1) This Act (other than sections 9, 10 and 11) commences on the day after its notification day.

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

- (2) Sections 9, 10 and 11 commence on the commencement of the *Senior Practitioner Act 2018*, section 46.

3 Legislation amended

This Act amends the *Senior Practitioner Act 2018*.

**4 Commencement
Section 2 (2)**

omit

1 July 2019

substitute

1 July 2020

**5 Meaning of *restrictive practice*
Section 7 (2), definition of *chemical restraint*,
paragraph (a)**

substitute

- (a) means the use of medication or a chemical substance for the primary purpose of influencing a person's behaviour or movement; but

6 Section 10

substitute

10 Use of restrictive practice

A provider, or a relevant person for a provider, must not use a restrictive practice on a person unless—

- (a) it is used in accordance with a registered positive behaviour support plan for the person; or
- (b) each of the following applies:
 - (i) the provider or relevant person believes on reasonable grounds that it is necessary to use the restrictive practice to avoid imminent harm to the person or others;
 - (ii) the restrictive practice is the least restrictive of the person as is possible in the circumstances having regard to—
 - (A) the kinds of restrictive practices that may be used; and
 - (B) how the restrictive practice is applied; and
 - (C) how long the restrictive practice is applied;
 - (iii) if practicable—the use of the restrictive practice is authorised by the person in charge of the provider.

10A Use of restrictive practice other than under a registered positive behaviour support plan—reporting

- (1) This section applies if a provider, or a relevant person for a provider, uses a restrictive practice on a person under the circumstances mentioned in section 10 (b).
- (2) The provider must give the senior practitioner a report about the use of the restrictive practice within 5 days after the restrictive practice is used.
- (3) A report under subsection (2) must—
 - (a) be made in accordance with any guideline made under section 27; and
 - (b) state the following:
 - (i) the name of the person on whom the restrictive practice was used;
 - (ii) whether the person was a child when the restrictive practice was used;
 - (iii) the kind of restrictive practice used;
 - (iv) for how long the restrictive practice was used;
 - (v) the reason why the restrictive practice was used;
 - (vi) what prior attempt (if any) was made to avoid the use of the restrictive practice;
 - (vii) the effect of the restrictive practice on the person's behaviour;
 - (viii) the name of the person who authorised the use of the restrictive practice (if relevant);
 - (ix) the name of the person who used the restrictive practice.

**7 Provider to monitor and record use of restrictive practices
Section 20 (b)**

omit everything after

in accordance with

substitute

section 10A and any guidelines made under section 12 or section 27.

**8 Senior practitioner may give information to particular entities
New section 42 (1) (ja)**

insert

(ja) the NDIS Quality and Safeguards Commission established under the *National Disability Insurance Scheme Act 2013* (Cwlth), section 181A;

9 Section 46 heading

substitute

46 Using restrictive practice other than in accordance with Act

10 Section 46 (1) and (2) and note

substitute

- (1) A person commits an offence if the person—
- (a) is a provider or a relevant person for a provider; and
 - (b) fails to comply with section 10 (Use of restrictive practice).
- Maximum penalty: 50 penalty units.

- (2) A person commits an offence if the person—
- (a) is a provider; and
 - (b) fails to comply with section 10A (Use of restrictive practice other than under a registered positive behaviour support plan—reporting).

Maximum penalty: 50 penalty units.

11 Section 46 (4)

omit

12 Dictionary, definition of *positive behaviour support panel*

omit

section 21

substitute

section 22

13 Dictionary, new definition of *relevant person*

insert

relevant person, for a provider, means an employee, agent, contractor or other person acting under the direction or on behalf of the provider.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 14 May 2019.

2 Notification

Notified under the [Legislation Act](#) on 14 June 2019.

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 Senior Practitioner Amendment Bill 2019, which was passed by the Legislative Assembly on 4 June 2019.

Clerk of the Legislative Assembly

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