2019

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Disability)

Senior Practitioner Amendment Bill 2019

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Senior Practitioner Amendment Bill 2019

A Bill for

An Act to amend the [Senior Practitioner Act 2018](http://www.legislation.act.gov.au/a/2018-27%22%20%5Co%20%22A2018-27)

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](http://www.legislation.act.gov.au/a/2001-14), s 75 (1)).

 (2) Sections 9, 10 and 11 commence on the commencement of the [Senior Practitioner Act 2018](http://www.legislation.act.gov.au/a/2018-27), section 46.

3 Legislation amended

This Act amends the [Senior Practitioner Act 2018](http://www.legislation.act.gov.au/a/2018-27).

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 believes on reasonable grounds that it is necessary to use the restrictive practice to avoid the imminent risk of death of, or serious physical 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](https://www.legislation.gov.au/Series/C2013A00020) (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](http://www.legislation.act.gov.au/a/2001-14) on 2019.

3 Republications of amended laws

 For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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