

2019

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Disability)

Senior Practitioner Amendment Bill 2019

Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Legislation amended	2
4 Commencement Section 2 (2)	2
5 Meaning of <i>restrictive practice</i> Section 7 (2), definition of <i>chemical restraint</i> , paragraph (a)	2
6 Section 10	3
7 Provider to monitor and record use of restrictive practices Section 20 (b)	5

Contents

		Page
8	Senior practitioner may give information to particular entities New section 42 (1) (ja)	5
9	Section 46 heading	5
10	Section 46 (1) and (2) and note	5
11	Section 46 (4)	6
12	Dictionary, definition of <i>positive behaviour support panel</i>	6
13	Dictionary, new definition of <i>relevant person</i>	6

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Senior Practitioner Amendment Bill 2019

A Bill for

An Act to amend the *Senior Practitioner Act 2018*

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

1 **1 Name of Act**

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

3 **2 Commencement**

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

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

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

10 **3 Legislation amended**

11 This Act amends the *Senior Practitioner Act 2018*.

12 **4 Commencement**
13 **Section 2 (2)**

14 *omit*

15 1 July 2019

16 *substitute*

17 1 July 2020

18 **5 Meaning of *restrictive practice***
19 **Section 7 (2), definition of *chemical restraint*,**
20 **paragraph (a)**

21 *substitute*

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

1 **6 Section 10**

2 *substitute*

3 **10 Use of restrictive practice**

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

6 (a) it is used in accordance with a registered positive behaviour
7 support plan for the person; or

8 (b) each of the following applies:

9 (i) the provider believes on reasonable grounds that it is
10 necessary to use the restrictive practice to avoid the
11 imminent risk of death of, or serious physical harm to, the
12 person or others;

13 (ii) the restrictive practice is the least restrictive of the person
14 as is possible in the circumstances having regard to—

15 (A) the kinds of restrictive practices that may be used;
16 and

17 (B) how the restrictive practice is applied; and

18 (C) how long the restrictive practice is applied;

19 (iii) if practicable—the use of the restrictive practice is
20 authorised by the person in charge of the provider.

- 1 **10A Use of restrictive practice other than under a registered**
2 **positive behaviour support plan—reporting**
- 3 (1) This section applies if a provider, or a relevant person for a provider,
4 uses a restrictive practice on a person under the circumstances
5 mentioned in section 10 (b).
- 6 (2) The provider must give the senior practitioner a report about the use
7 of the restrictive practice within 5 days after the restrictive practice is
8 used.
- 9 (3) A report under subsection (2) must—
- 10 (a) be made in accordance with any guideline made under
11 section 27; and
- 12 (b) state the following:
- 13 (i) the name of the person on whom the restrictive practice
14 was used;
- 15 (ii) whether the person was a child when the restrictive
16 practice was used;
- 17 (iii) the kind of restrictive practice used;
- 18 (iv) for how long the restrictive practice was used;
- 19 (v) the reason why the restrictive practice was used;
- 20 (vi) what prior attempt (if any) was made to avoid the use of
21 the restrictive practice;
- 22 (vii) the effect of the restrictive practice on the person’s
23 behaviour;
- 24 (viii) the name of the person who authorised the use of the
25 restrictive practice (if relevant);
- 26 (ix) the name of the person who used the restrictive practice.

1 **7** **Provider to monitor and record use of**
2 **restrictive practices**
3 **Section 20 (b)**

4 *omit everything after*
5 in accordance with
6 *substitute*
7 section 10A and any guidelines made under section 12 or section 27.

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

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

15 **9** **Section 46 heading**

16 *substitute*

17 **46** **Using restrictive practice other than in accordance with**
18 **Act**

19 **10** **Section 46 (1) and (2) and note**

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

- 1 (2) A person commits an offence if the person—
2 (a) is a provider; and
3 (b) fails to comply with section 10A (Use of restrictive practice
4 other than under a registered positive behaviour support plan—
5 reporting).
6 Maximum penalty: 50 penalty units.

7 **11 Section 46 (4)**

8 *omit*

9 **12 Dictionary, definition of *positive behaviour support panel***

10 *omit*

11 section 21

12 *substitute*

13 section 22

14 **13 Dictionary, new definition of *relevant person***

15 *insert*

16 *relevant person*, for a provider, means an employee, agent, contractor
17 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 2019.

3 Republications of amended laws

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

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