



New South Wales

Health Legislation (Miscellaneous) Amendment Bill 2022

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are as follows—

- (a) to amend the *Health Practitioner Regulation (Adoption of National Law) Act 2009*, which adopts, with modifications, the Health Practitioner Regulation National Law as set out in the Schedule (the **Queensland Schedule**) to the *Health Practitioner Regulation National Law Act 2009* of Queensland as a law of New South Wales, to ensure better parliamentary oversight by providing that future amendments to the Queensland Schedule do not take effect as law in New South Wales unless a regulation is made in New South Wales adopting, with or without modification, the amendments,
- (b) to amend the *Health Services Act 1997* to update the definitions of **COAG** and **Standing Council on Health** to reflect the current composition of those entities,
- (c) to amend the *Mental Health Act 2007* to—
 - (i) extend, until 30 June 2022, a COVID-19 related provision that enables certain examinations and observations to be conducted using an audio visual link, and
 - (ii) update the written statements of rights given to persons detained in, and voluntary patients of, mental health facilities to list LawAccess NSW as a service through which a person may seek help or advice instead of Legal Aid’s Mental Health Advocacy Service,
- (d) to amend the *Mental Health and Cognitive Impairment Forensic Provisions Act 2020* to update the certificate that a medical practitioner is required to complete when issuing an order to transfer a person imprisoned in, or a forensic patient detained in, a correctional centre or detention centre to a mental health facility, to include the place where the

- examination took place, and the name of the correctional centre or detention centre where the person is detained if that place is not the same as where the examination took place,
- (e) to amend the *Private Health Facilities Act 2007* to extend the following COVID-19 related provisions until 30 June 2022—
- (i) section 12A, which allows the Secretary of the Ministry of Health to impose conditions on a private health facility licence to protect the health and safety of the public, manage resources or ensure the provision of balanced and coordinated health services throughout the State,
 - (ii) section 70, which allows the Secretary of the Ministry of Health to exempt a licensee or a class of licensees from a condition of a licence or a requirement relating to the medical advisory committee for a facility operated by the licensee,
- (f) to amend the *Public Health Act 2010* to—
- (i) clarify that an authorised medical practitioner may only require a person who is the subject of a public health order to undergo a medical examination or test that relates to the condition for which the order was made, and
 - (ii) require that an authorised medical practitioner making a public health order give a person subject to the order information about the duration of the order, the person's rights of review and any other information prescribed by the regulations. It also provides that failure to give the information does not invalidate the order, and
 - (iii) clarify that a person takes reasonable precautions against spreading a sexually transmissible notifiable disease or scheduled medical condition if the person acts in accordance with any information, if provided, relating to the means of minimising the risk of infecting other people prescribed in the regulations that must be given by a medical practitioner to the person in relation to the disease or condition, and
 - (iv) extend the following COVID-19 emergency measures provisions until 30 September 2022—
 - (A) section 112(2), which enables a police officer to direct a person suspected of contravening a provision of the *Public Health Act 2010* or the regulations made under it to provide the person's name and residential address,
 - (B) section 118(6) and (7), which enable police officers to issue penalty notices under the *Public Health Act 2010* in addition to other authorised officers, and enable the Minister to impose conditions of the exercise of those powers by authorised officers, including police officers, under that Act,
- (g) to amend the *Subordinate Legislation Act 1989* to postpone the repeal of the *Poisons and Therapeutic Goods Regulation 2008* to 1 September 2024.

Outline of provisions

Clause 1 sets out the name, also called the short title, of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Schedule 1 Amendments

Schedule 1.1 amends the *Health Practitioner Regulation (Adoption of National Law) Act 2009* to insert proposed section 4(2)–(6), which provides that—

- (a) future amendments to the Queensland Schedule do not take effect as law in New South Wales unless a regulation is made in New South Wales adopting the amendments, with or without modifications, and
- (b) a regulation applying an amendment to the Queensland Schedule with modifications may amend the Schedule to the Act to reflect the modifications.

Schedule 1.2 amends the *Health Services Act 1997*, Schedule 6A to update the definitions of **COAG** and **Standing Council on Health** in provisions relating to health funding arrangements under the National Health Reform Agreement.

Schedule 1.3[1] amends the *Mental Health Act 2007*, section 203(5)(b) to enable certain examinations and observations to be conducted using an audio visual link until 30 June 2022.

Schedule 1.3[2] amends the *Mental Health Act 2007*, Schedules 3 and 3A to replace references to the Mental Health Advocacy Service with LawAccess NSW in the statements of rights required to be given to persons detained in, and voluntary patients of, mental health facilities.

Schedule 1.4 amends the *Mental Health and Cognitive Impairment Forensic Provisions Act 2020*, Schedule 1 to include that the medical practitioner must state the location where the examination took place and the name of the correctional centre where the person is detained, if not the same place, in the certificate a medical practitioner is required to complete when ordering that a person imprisoned in, or a forensic patient detained in, a correctional centre or detention centre be transferred to a mental health facility.

Schedule 1.5[1] amends the *Private Health Facilities Act 2007*, section 12A to allow the Secretary of the Ministry of Health to impose conditions on a private health facility licence to protect the health and safety of the public, manage resources or ensure the provision of balanced and coordinated health services throughout the State until 30 June 2022.

Schedule 1.5[2] amends the *Private Health Facilities Act 2007*, section 70 to allow the Secretary of the Ministry of Health to exempt compliance with a condition on a private health facility licence until 30 June 2022.

Schedule 1.6[1] amends the *Public Health Act 2010*, section 62 to clarify that an authorised medical practitioner who makes a public health order may only require a person the subject of the public health order to undergo a medical examination or test that relates to the condition for which the order was made.

Schedule 1.6[2] amends the *Public Health Act 2010*, section 62 to requires an authorised medical practitioner making a public health order to give a person subject to the order information about the duration of the order, the person's rights of review and any other information prescribed by the regulations. It also provides that failure to give the information does not invalidate the order.

Schedule 1.6[3] amends the *Public Health Act 2010*, section 79 to clarify that a person takes reasonable precautions against spreading a sexually transmissible notifiable disease or scheduled medical condition if the person acts in accordance with any information, if provided, relating to the means of minimising the risk of infecting other people prescribed in the regulations that must be given to the person by a medical practitioner in relation to the disease or condition.

Schedule 1.6[4] and [5] amends the *Public Health Act 2010*, section 135 to extend the following provisions of that Act until 30 September 2022—

- (a) section 112(2), which enables a police officer to direct a person suspected of contravening a provision of the *Public Health Act 2010* or the regulations made under it to provide the person's name and residential address,
- (b) section 118(6) and (7), which enables police officers to issue penalty notices under the *Public Health Act 2010* in addition to other authorised officers, and enables the Minister to impose conditions of the exercise of those powers by authorised officers, including police officers, under that Act.

Schedule 1.7 amends the *Subordinate Legislation Act 1989*, Schedule 5 to postpone the repeal of the *Poisons and Therapeutic Goods Regulation 2008* to 1 September 2024.