



New South Wales

# Health Legislation Amendment Bill 2010

## 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 Services Act 1997* and the *Criminal Procedure Act 1986* to create offences of obstructing and hindering ambulance officers and obstructing and hindering such officers by acts of violence,
- (b) to amend the *Health Administration Act 1982* and the *Private Health Facilities Act 2007* with respect to root cause analysis teams,
- (c) to amend the *Assisted Reproductive Technology Act 2007* to require certain information to be provided for the purposes of the central ART donor register,
- (d) to amend the *Guardianship Act 1987* to clarify the relationship between Part 5 of that Act and the *Mental Health (Forensic Provisions) Act 1990*,
- (e) to amend the *Health Administration Act 1982* with respect to the bodies and organisations that are part of NSW Health,
- (f) to amend the *Health Services Act 1997* with respect to the delegation of functions by area health services and the joint management of services or facilities by statutory health corporations,

- (g) to amend the *Public Health (Tobacco) Act 2008* to increase the period within which tobacco retailers must provide notification of certain matters.

## 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 a day or days to be appointed by proclamation except for certain provisions that are to commence on the date of assent to the proposed Act.

## **Schedule 1 Amendments relating to ambulance officers**

### **Schedule 1.1 Health Services Act 1997 No 154**

**Schedule 1.1 [1]** creates an offence if a person intentionally obstructs or hinders an ambulance officer when the ambulance officer is providing or attempting to provide ambulance services to another person or persons. The maximum penalty for the offence is imprisonment for 2 years or a fine of \$5,500 or both. However, if the ambulance officer is hindered or obstructed by an act of violence against the ambulance officer the maximum penalty is imprisonment for 5 years. Provision is made for an alternative verdict where a trier of fact finds that the more serious offence is not proven but it is satisfied that the person charged committed the less serious offence. **Schedule 1.1 [2]** makes a consequential amendment that enables the offence of obstructing or hindering an ambulance officer by an act of violence on the ambulance officer to be tried by way of indictment.

### **Schedule 1.2 Criminal Procedure Act 1986 No 209**

**Schedule 1.2** provides that the offence proposed in Schedule 1.1 [1] of obstructing or hindering an ambulance officer by an act of violence on the ambulance officer is to be tried summarily unless the prosecutor elects otherwise. The proposed amendment also reorganises the order and layout of some existing provisions.

## **Schedule 2 Amendments relating to root cause analysis teams**

### **Schedule 2.1 Health Administration Act 1982 No 135**

A relevant health services organisation (which includes all area health services and those statutory health corporations and affiliated health organisations that are prescribed) is required to appoint a root cause analysis team if a reportable incident involving the organisation is reported to the chief executive officer of the organisation. **Schedule 2.1 [1]** permits a root cause analysis team to be appointed if the incident reported to the chief executive officer is not a reportable incident but is one that, in the opinion of the chief executive officer, may be the result of a serious

systemic problem that justifies the appointment of such a team. **Schedule 2.1 [2] and [5]** make consequential amendments.

**Schedule 2.1 [3]** requires a member of a root cause analysis team to act in a fair and reasonable manner in the exercise of his or her functions. This replaces an obligation that a root cause analysis team is to have regard to the rules of natural justice.

A root cause analysis team is required to notify the relevant health services organisation if the incident that it is considering raises matters that may involve professional misconduct or unsatisfactory professional conduct by a visiting practitioner or staff member or if such a person may be suffering from an impairment. A root cause analysis team may also make such a notification if the incident indicates unsatisfactory professional performance. **Schedule 2.1 [4]** specifies that any such notification is to disclose the identity of the person to whom it relates and whether the notification relates to professional misconduct, unsatisfactory professional conduct, unsatisfactory professional performance or impairment. **Schedule 2.1 [4]** also includes a new ground for making a notification if the root cause analysis team is of the opinion that the incident that it is considering indicates a problem giving rise to a risk of serious and imminent harm to a person. **Schedule 2.1 [9]** provides that a member of a root cause analysis team may disclose information acquired by the person as such a member for the purposes of any such notification. **Schedule 2.1 [8]** includes definitions of the terms *professional misconduct*, *unsatisfactory professional conduct*, *unsatisfactory professional performance* and *impairment*.

**Schedule 2.1 [6]** clarifies that a root cause analysis team may, but is not required to, make recommendations in respect of an incident that it has considered.

**Schedule 2.1 [7]** provides that the contents of a report of a root cause analysis team may be disclosed to any person and used for any purpose. However, **Schedule 2.1 [12]** provides that evidence as to the contents of a notification or report of a root cause analysis team cannot be adduced or admitted in any proceedings. Currently, any such notification or report is not admissible as evidence in any proceedings that a procedure or practice is or was careless or inadequate.

**Schedule 2.1 [10]** provides that a person (currently this privilege only applies to members of root cause analysis teams and the health services organisations that appoint them) cannot be required to produce any document or disclose any communication to a court, tribunal, board, person or body if the document was prepared, or the communication was made, for the dominant purpose of the conduct of an investigation by a root cause analysis team. However, this does not apply to a requirement made in proceedings in respect of an act or omission by a root cause analysis team or by a member of such a team. **Schedule 2.1 [11]** provides that this also does not apply to a requirement made by a person or body who has been approved by the Director-General of the Department of Health (the *Director-General*) to carry out a review or audit of an investigation conducted by a root cause analysis team.

**Schedule 2.1 [13]** permits regulations to be made in relation to the conduct of reviews or audits of investigations conducted by root cause analysis teams.

**Schedule 2.1 [14]** omits a spent provision.

**Schedule 2.1 [15]** enables regulations to be made containing provisions of a savings or transitional nature consequent on the enactment of the proposed Act.

**Schedule 2.1 [16]** inserts savings and transitional provisions consequential on the enactment of the proposed Act.

### **Schedule 2.2 Private Health Facilities Act 2007 No 9**

A licensee of a private health facility is required to appoint a root cause analysis team if a reportable incident involving the facility is reported to the licensee. **Schedule 2.2 [1]** permits a root cause analysis team to be appointed if the incident reported to the licensee is not a reportable incident but is one that, in the opinion of the licensee, may be the result of a serious systemic problem that justifies the appointment of such a team. **Schedule 2.2 [2] and [5]** make consequential amendments.

**Schedule 2.2 [3]** requires a member of a root cause analysis team to act in a fair and reasonable manner in the exercise of his or her functions. This replaces an obligation that a root cause analysis team is to have regard to the rules of natural justice.

A root cause analysis team is required to notify the licensee and the chair of the medical advisory committee for the relevant facility if the incident that it is considering raises matters that may involve professional misconduct or unsatisfactory professional conduct by a staff member or person who is accredited to provide health services at the facility or if such a person may be suffering from an impairment. A root cause analysis team may also make such a notification if the incident indicates unsatisfactory professional performance. **Schedule 2.2 [4]** specifies that any such notification is to disclose the identity of the person to whom it relates and whether the notification relates to professional misconduct, unsatisfactory professional conduct, unsatisfactory professional performance or impairment. **Schedule 2.2 [4]** also includes a new ground for making a notification if the root cause analysis team is of the opinion that the incident that it is considering indicates a problem giving rise to a risk of serious and imminent harm to a person. **Schedule 2.2 [9]** provides that a member of a root cause analysis team may disclose information acquired by the person as such a member for the purposes of any such notification. **Schedule 2.2 [8]** includes definitions of the terms *professional misconduct*, *unsatisfactory professional conduct*, *unsatisfactory professional performance* and *impairment*.

**Schedule 2.2 [6]** clarifies that a root cause analysis team may, but is not required to, make recommendations in respect of an incident that it has considered.

**Schedule 2.2 [7]** provides that the contents of a report of a root cause analysis team may be disclosed to any person and used for any purpose. However, **Schedule 2.2 [12]** provides that evidence as to the contents of a notification or report of a root cause analysis team cannot be adduced or admitted in any proceedings. Currently, any such notification or report is not admissible as evidence in any proceedings that a procedure or practice is or was careless or inadequate.

**Schedule 2.2 [10]** provides that a person (currently this privilege only applies to members of root cause analysis teams and the licensee and chair of the medical advisory committee for the facility for which the team was appointed) cannot be required to produce any document or disclose any communication to a court, tribunal, board, person or body if the document was prepared, or the communication was made, for the dominant purpose of the conduct of an investigation by a root cause analysis team. However, this does not apply to a requirement made in proceedings in respect of an act or omission by a root cause analysis team or by a member of such a team. **Schedule 2.2 [11]** provides that this also does not apply to a requirement made by a person or body who has been approved by the Director-General to carry out a review or audit of an investigation conducted by a root cause analysis team.

**Schedule 2.2 [13]** permits regulations to be made in relation to the conduct of reviews or audits of investigations conducted by root cause analysis teams.

**Schedule 2.2 [14]** enables regulations to be made containing provisions of a savings or transitional nature consequent on the enactment of the proposed Act.

**Schedule 2.2 [15]** inserts savings and transitional provisions consequential on the enactment of the proposed Act.

## **Schedule 3 Other amendments**

### **Schedule 3.1 Assisted Reproductive Technology Act 2007 No 69**

The *Assisted Reproductive Technology Act 2007* establishes a central ART donor register which requires certain information about donors of gametes and adult offspring born as a result of assisted reproductive technology (*ART*) treatment using a donated gamete, to be given to the Director-General. The Director-General is then able to disclose certain information about a donor to any adult offspring of the donor and certain information about any offspring of a donor to the donor. This scheme is limited to information in respect of ART treatment occurring after 1 January 2010. For ART treatment occurring before this date a donor or offspring may apply to the Director-General to have the person's information included in the central ART donor register.

**Schedule 3.1 [1]** provides that when the Director-General receives such an application he or she may direct an ART provider to provide information so as to enable the Director-General to identify, in the case of an application by a donor, any offspring of the donor, and in the case of a person who was born as a result of ART treatment using a donated gamete, the donor of the gamete. An ART provider must comply with any such direction. **Schedule 3.1 [2]** makes a consequential amendment.

**Schedule 3.1 [3]** provides that the Director-General must not disclose any information provided by an ART provider as a result of a direction unless the person to whom the information relates is an adult and consents to the disclosure.

**Schedule 3.2 Guardianship Act 1987 No 257**

**Schedule 3.2** provides that in the event of an inconsistency between Part 5 (Medical and dental treatment) of the *Guardianship Act 1987* and the *Mental Health (Forensic Provisions) Act 1990*, the *Mental Health (Forensic Provisions) Act 1990* prevails.

**Schedule 3.3 Health Administration Act 1982 No 135**

**Schedule 3.3** provides that the expression “NSW Health” includes bodies and organisations under the control and direction of the Director-General.

**Schedule 3.4 Health Services Act 1997 No 154**

**Schedule 3.4 [1]** permits an area health service to delegate its functions to visiting practitioners, to councils or committees appointed by the area health service, to certain bodies appointed by the Minister for Health or the Director-General or to persons or bodies of a class prescribed by the regulations.

**Schedule 3.4 [2]** permits 2 or more statutory health corporations to agree to jointly manage a public hospital, health institution, health service or health support service or to agree that any such service under the control of one of the statutory health corporations be managed by another statutory health corporation. Such an agreement cannot be entered without the approval of the Minister for Health.

**Schedule 3.4 [3]** enables regulations to be made containing provisions of a savings or transitional nature consequent on the enactment of the proposed Act.

**Schedule 3.5 Public Health (Tobacco) Act 2008 No 94**

**Schedule 3.5** amends the *Public Health (Tobacco) Act 2008* to increase, from 7 to 28 days, the period within which a person engaged in tobacco retailing must notify the Director-General after becoming aware of certain changes affecting the person’s tobacco retailing business.

First print



New South Wales

# Health Legislation Amendment Bill 2010

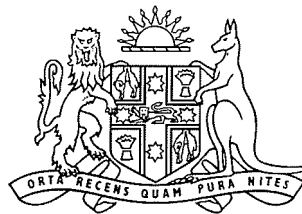
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New South Wales

# Health Legislation Amendment Bill 2010

No. , 2010

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## A Bill for

An Act to make miscellaneous amendments to various Acts that relate to health and associated matters.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Health Legislation Amendment Act 2010</i> .	3
<b>2 Commencement</b>	4
(1) Except as otherwise provided in this section, this Act commences on a day or days to be appointed by proclamation.	5 6
(2) Schedule 3.2–3.4 commence on the date of assent to this Act.	7

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<b>Schedule 1</b>	<b>Amendments relating to ambulance officers</b>	1
		2
<b>1.1</b>	<b>Health Services Act 1997 No 154</b>	3
<b>[1]</b>	<b>Section 67J</b>	4
	Insert after section 67I:	5
<b>67J</b>	<b>Obstruction of and violence against ambulance officers</b>	6
(1)	A person must not intentionally obstruct or hinder an ambulance officer when the ambulance officer is providing or attempting to provide ambulance services to another person or persons.	7
	Maximum penalty: 50 penalty units or imprisonment for 2 years, or both.	8
		9
(2)	A person must not, by an act of violence against an ambulance officer, intentionally obstruct or hinder the ambulance officer when the ambulance officer is providing or attempting to provide ambulance services to another person or persons.	10
	Maximum penalty: Imprisonment for 5 years.	11
		12
(3)	If on the trial of a person charged with an offence against subsection (2) the trier of fact is not satisfied that the offence is proven but is satisfied that the person has committed an offence against subsection (1), the trier of fact may acquit the person of the offence charged and find the person guilty of an offence against subsection (1). The person is liable to punishment accordingly.	13
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(4)	In this section:	17
	<i>ambulance officer</i> means a member of staff of the Ambulance Service of NSW.	18
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	<i>ambulance services</i> means the work of rendering first aid to, or transporting, sick and injured persons.	20
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<b>[2]</b>	<b>Section 137 Proceedings for offences</b>	29
	Insert “(other than an offence under section 67J (2))” after “this Act”.	30

<b>1.2 Criminal Procedure Act 1986 No 209</b>	1
<b>Schedule 1 Indictable offences triable summarily</b>	2
Omit Parts 10 and 11 of Table 2.	3
Insert at the end of Table 2 with appropriate Part and clause numbering:	4
<b>Part Offences under certain other Acts</b>	5
<b>Child Protection (Offenders Registration) Act 2000</b>	6
An offence under section 17 or 18 of the <i>Child Protection (Offenders Registration) Act 2000</i> .	7 8
<b>Health Services Act 1997</b>	9
An offence under section 67J (2) of the <i>Health Services Act 1997</i> .	10
<b>Surveillance Devices Act 2007</b>	11
An offence under Part 2 or 5 (other than section 40 (2)) of the <i>Surveillance Devices Act 2007</i> .	12 13

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<b>Schedule 2</b>	<b>Amendments relating to root cause analysis teams</b>	1
		2
<b>2.1</b>	<b>Health Administration Act 1982 No 135</b>	3
<b>[1]</b>	<b>Section 20M Appointment of RCA teams to deal with incidents</b>	4
	Insert after section 20M (1):	5
	(1A) When an incident involving the provision of health services by a relevant health services organisation (other than a reportable incident) is reported to the chief executive officer of the organisation, the organisation may appoint a root cause analysis team in relation to the incident if the chief executive officer is of the opinion that the incident may be the result of a serious systemic problem that justifies the appointment of such a team.	6 7 8 9 10 11 12
<b>[2]</b>	<b>Sections 20M (2) and (3) and 20O (1), (2) and (3) (a) and (b)</b>	13
	Omit “reportable” wherever occurring.	14
<b>[3]</b>	<b>Section 20N Restrictions on RCA teams</b>	15
	Omit section 20N (3). Insert instead:	16
	(3) A member of a RCA team is to act in a fair and reasonable manner in the exercise of his or her functions as such a member.	17 18
<b>[4]</b>	<b>Section 20O Responsibilities of RCA team in relation to incident</b>	19
	Insert after section 20O (2):	20
	(2A) A notification under subsection (1) or (2) is to disclose the identity of the person to whom the notification relates (regardless of whether the person consents to the disclosure) and specify whether the notification relates to:	21 22 23 24
	(a) professional misconduct, unsatisfactory professional conduct or unsatisfactory professional performance by the person, or	25 26 27
	(b) the person suffering from an impairment.	28
	(2B) A RCA team may notify in writing the relevant health services organisation by which it was appointed if the RCA team is of the opinion that the incident that it is considering raises matters that indicate a problem giving rise to a risk of serious and imminent harm to a person.	29 30 31 32 33

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<b>[5] Sections 20O (3) and 20T (f)</b>	1
Omit “a reportable incident” wherever occurring. Insert instead “an incident”.	2
<b>[6] Section 20O (3) (c)</b>	3
Omit the paragraph. Insert instead:	4
(c) if the RCA team has any recommendations as to the need	5
for changes or improvements in relation to a procedure or	6
practice arising out of the incident—those	7
recommendations.	8
<b>[7] Section 20O (3A)</b>	9
Insert after section 20O (3):	10
(3A) Subject to section 20R, the contents of a report of a RCA team	11
under subsection (3) may be disclosed to any person and used for	12
any purpose.	13
<b>[8] Section 20O (4)</b>	14
Insert in alphabetical order:	15
<i>impairment</i> has the same meaning it has in the <i>Health</i>	16
<i>Practitioner Regulation National Law (NSW)</i> .	17
<i>professional misconduct</i> and <i>unsatisfactory professional</i>	18
<i>conduct</i> have the same meanings that they have in Part 8 of the	19
<i>Health Practitioner Regulation National Law (NSW)</i> .	20
<i>unsatisfactory professional performance</i> means professional	21
performance that is unsatisfactory within the meaning of	22
Division 5 of Part 8 of the <i>Health Practitioner Regulation</i>	23
<i>National Law (NSW)</i> .	24
<b>[9] Section 20P Disclosure of information</b>	25
Omit “report prepared by a RCA team under section 20O (3)” from	26
section 20P (c).	27
Insert instead “notification or report under section 20O”.	28
<b>[10] Section 20Q Information not to be given in evidence</b>	29
Omit section 20Q (1). Insert instead:	30
(1) A person is neither competent nor compellable to produce any	31
document or disclose any communication to a court, tribunal,	32
board, person or body if the document was prepared, or the	33
communication was made, for the dominant purpose of the	34
conduct of an investigation by a RCA team.	35

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<b>[11] Section 20Q (3)</b>	1
Insert after section 20Q (2):	2
(3) Subsection (1) does not apply to a requirement made by a person or body who has been approved by the Director-General to carry out a review or audit of an investigation conducted by a RCA team.	3 4 5 6
<b>[12] Section 20R</b>	7
Omit the section. Insert instead:	8
<b>20R Notifications and reports not to be admitted in evidence</b>	9
(1) Evidence as to the contents of a notification or report of a RCA team under section 20O cannot be adduced or admitted in any proceedings.	10 11 12
(2) Subsection (1) does not apply to proceedings in respect of any act or omission by a RCA team or by a member of a RCA team as a member.	13 14 15
<b>[13] Section 20T Regulations concerning RCA teams</b>	16
Insert after section 20T (f):	17
(g) the conduct of reviews or audits of investigations conducted by RCA teams.	18 19
<b>[14] Section 20U Review of Division</b>	20
Omit the section.	21
<b>[15] Schedule 2 Savings, transitional and other provisions</b>	22
Insert at the end of clause 13 (1):	23
<i>Health Legislation Amendment Act 2010</i> (but only to the extent that it amends this Act)	24 25

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<b>[16] Schedule 2, Part 3</b>	1
Insert after Part 2:	2
<b>Part 3 Provisions consequent on enactment of Health Legislation Amendment Act 2010</b>	3
	4
<b>15 Definition</b>	5
In this Part:	6
<i>amending Act</i> means the <i>Health Legislation Amendment Act 2010</i> .	7
	8
<b>16 Appointment of RCA teams</b>	9
Section 20M (1A), as inserted by the amending Act, does not extend to an incident that was reported to the chief executive officer of a relevant health services organisation before the commencement of that subsection.	10
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<b>17 RCA team not required to make recommendations</b>	14
Section 20O (3) (c), as substituted by the amending Act, extends to an investigation commenced before that substitution.	15
	16
<b>18 Information not to be given in evidence</b>	17
Section 20Q (1), as substituted by the amending Act, extends to:	18
(a) a document that was prepared or a communication that was made before that substitution, and	19
	20
(b) proceedings that are pending on that substitution.	21
	22
<b>19 Notifications and reports not to be admitted in evidence</b>	22
Section 20R, as substituted by the amending Act, extends to:	23
(a) a notification that was given or a report that was prepared before that substitution, and	24
	25
(b) proceedings that are pending on that substitution.	26
	27
<b>2.2 Private Health Facilities Act 2007 No 9</b>	27
<b>[1] Section 42 Appointment of root cause analysis teams to deal with incidents</b>	28
	29
Insert after section 42 (1):	30
(1A) When an incident involving the provision of health services by a private health facility (other than a reportable incident) is	31
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	reported to the licensee of the facility, the licensee may appoint a root cause analysis team in relation to the incident if the licensee is of the opinion that the incident may be the result of a serious systemic problem that justifies the appointment of such a team.	1 2 3 4
<b>[2]</b>	<b>Sections 42 (2) and (3) and 44 (1), (2) and (3) (a) and (b)</b>	5
	Omit “reportable” wherever occurring.	6
<b>[3]</b>	<b>Section 43 Restrictions on root cause analysis teams</b>	7
	Omit section 43 (3). Insert instead:	8
	(3) A member of a root cause analysis team is to act in a fair and reasonable manner in the exercise of his or her functions as such a member.	9 10 11
<b>[4]</b>	<b>Section 44 Responsibilities of root cause analysis team in relation to incident</b>	12 13
	Insert after section 44 (2):	14
	(2A) A notification under subsection (1) or (2) is to disclose the identity of the person to whom the notification relates (regardless of whether the person consents to the disclosure) and specify whether the notification relates to:	15 16 17 18
	(a) professional misconduct, unsatisfactory professional conduct or unsatisfactory professional performance by the person, or	19 20 21
	(b) the person suffering from an impairment.	22
	(2B) A root cause analysis team may notify in writing the licensee and the chair of the medical advisory committee for the relevant facility if the team is of the opinion that the incident that it is considering raises matters that indicate a problem giving rise to a risk of serious and imminent harm to a person.	23 24 25 26 27
<b>[5]</b>	<b>Section 44 (3)</b>	28
	Omit “a reportable incident”. Insert instead “an incident”.	29
<b>[6]</b>	<b>Section 44 (3) (c)</b>	30
	Omit the paragraph. Insert instead:	31
	(c) if the team has any recommendations as to the need for changes or improvements in relation to a procedure or practice arising out of the incident—those recommendations.	32 33 34 35

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<b>[7] Section 44 (3A)</b>	1
Insert after section 44 (3):	2
(3A) Subject to section 47, the contents of a report of a root cause analysis team under subsection (3) may be disclosed to any person and used for any purpose.	3 4 5
<b>[8] Section 44 (6)</b>	6
Insert after section 44 (5):	7
(6) In this section:	8
<i>impairment</i> has the same meaning it has in the <i>Health Practitioner Regulation National Law (NSW)</i> .	9 10
<i>professional misconduct</i> and <i>unsatisfactory professional conduct</i> have the same meanings that they have in Part 8 of the <i>Health Practitioner Regulation National Law (NSW)</i> .	11 12 13
<i>unsatisfactory professional performance</i> means professional performance that is unsatisfactory within the meaning of Division 5 of Part 8 of the <i>Health Practitioner Regulation National Law (NSW)</i> .	14 15 16 17
<b>[9] Section 45 Disclosure of information</b>	18
Omit “report prepared by a team under section 44 (3)” from section 45 (c).	19
Insert instead “notification or report under section 44”.	20
<b>[10] Section 46 Information not to be given in evidence</b>	21
Omit section 46 (1). Insert instead:	22
(1) A person is neither competent nor compellable to produce any document or disclose any communication to a court, tribunal, board, person or body if the document was prepared, or the communication was made, for the dominant purpose of the conduct of an investigation by a root cause analysis team.	23 24 25 26 27
<b>[11] Section 46 (3)</b>	28
Insert after section 46 (2):	29
(3) Subsection (1) does not apply to a requirement made by a person or body who has been approved by the Director-General to carry out a review or audit of an investigation conducted by a root cause analysis team.	30 31 32 33

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<b>[12] Section 47</b>	1
Omit the section. Insert instead:	2
<b>47 Notifications and reports not to be admitted in evidence</b>	3
(1) Evidence as to the contents of a notification or report of a root cause analysis team under section 44 cannot be adduced or admitted in any proceedings.	4 5 6
(2) Subsection (1) does not apply to proceedings in respect of any act or omission by a root cause analysis team or by a member of a root cause analysis team as a member.	7 8 9
<b>[13] Section 49 Regulations concerning root cause analysis teams</b>	10
Insert after section 49 (e):	11
(f) the conduct of reviews or audits of investigations conducted by root cause analysis teams.	12 13
<b>[14] Schedule 4 Savings, transitional and other provisions</b>	14
Insert at the end of clause 1 (1):	15
<i>Health Legislation Amendment Act 2010</i> (but only to the extent that it amends this Act)	16 17
<b>[15] Schedule 4, Part 3</b>	18
Insert after Part 2:	19
<b>Part 3 Provisions consequent on enactment of Health Legislation Amendment Act 2010</b>	20 21
<b>21 Definition</b>	22
In this Part:	23
<i>amending Act</i> means the <i>Health Legislation Amendment Act 2010</i> .	24 25
<b>22 Appointment of root cause analysis teams</b>	26
Section 42 (1A), as inserted by the amending Act, does not extend to an incident that was reported to the licensee of a private health facility before the commencement of that subsection.	27 28 29
<b>23 Root cause analysis team not required to make recommendations</b>	30
Section 44 (3) (c), as substituted by the amending Act, extends to an investigation commenced before that substitution.	31 32

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<b>24</b>	<b>Information not to be given in evidence</b>	1
	Section 46 (1), as substituted by the amending Act, extends to:	2
	(a) a document that was prepared or a communication that was made before that substitution, and	3 4
	(b) proceedings that are pending on that substitution.	5
<b>25</b>	<b>Notifications and reports not to be admitted in evidence</b>	6
	Section 47, as substituted by the amending Act, extends to:	7
	(a) a notification that was given or a report that was prepared before that substitution, and	8 9
	(b) proceedings that are pending on that substitution.	10

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<b>Schedule 3</b>	<b>Other amendments</b>	1
<b>3.1</b>	<b>Assisted Reproductive Technology Act 2007 No 69</b>	2
<b>[1]</b>	<b>Schedule 1 Savings, transitional and other provisions</b>	3
	Insert after clause 4 (3):	4
	(3A) The Director-General may, on receipt of an application under this clause, direct an ART provider in writing to provide such information as the Director-General may require to enable the Director-General to identify:	5
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		8
	(a) in the case of an application by a donor of a gamete—any offspring of the donor born as a result of ART treatment using the donated gamete, and	9
		10
		11
	(b) in the case of an application by a person who was born as a result of ART treatment using a donated gamete—the donor of the gamete.	12
		13
		14
	(3B) An ART provider must comply with any such direction of the Director-General.	15
		16
<b>[2]</b>	<b>Schedule 1, clause 4 (4)</b>	17
	Insert “or (3A)” after “subclause (2)”.	18
<b>[3]</b>	<b>Schedule 1, clause 4 (5)</b>	19
	Insert after clause 4 (4):	20
	(5) The Director-General must not disclose information provided under subclause (3A) that identifies a person unless the person:	21
		22
	(a) is an adult, and	23
	(b) has made an application under this clause or has provided written consent to the disclosure.	24
		25
<b>3.2</b>	<b>Guardianship Act 1987 No 257</b>	26
	<b>Section 34 Application of Part</b>	27
	Insert “or the <i>Mental Health (Forensic Provisions) Act 1990</i> ” after “ <i>Mental Health Act 2007</i> ” wherever occurring in section 34 (2).	28
		29
<b>3.3</b>	<b>Health Administration Act 1982 No 135</b>	30
	<b>Section 4 Definitions</b>	31
	Insert “or the Director-General” after “Minister” in section 4 (1A).	32

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<b>3.4 Health Services Act 1997 No 154</b>	1
<b>[1] Section 40 Delegations by area health service</b>	2
Omit section 40 (1) including the note. Insert instead:	3
(1) An area health service may delegate any of its functions (other than a function set out in subsection (1A)) to:	4
(a) any member of the NSW Health Service, or	5
(b) a visiting practitioner, council or committee appointed by the area health service, or	6
(c) a body appointed by the Minister or Director-General under this or any other Act, or	7
(d) a person or body of a class prescribed by the regulations.	8
<b>Note.</b> Section 49 of the <i>Interpretation Act 1987</i> contains general provisions relating to the delegation of functions.	9
(1A) An area health service cannot delegate:	10
(a) its power of delegation under this section, or	11
(b) its functions under section 31 (2), or	12
(c) the power to make by-laws.	13
<b>[2] Section 53A</b>	14
Insert before section 53:	15
<b>53A Combined management or assistance in management of public hospitals, health institutions, health services or health support services</b>	16
(1) Any two or more statutory health corporations may, by agreement, jointly control and manage any public hospital, health institution, health service or health support service.	17
(2) A statutory health corporation may, by agreement, manage any public hospital, health institution, health service or health support service under the control of another statutory health corporation, or assist in that management, for and on behalf of that other statutory health corporation.	18
(3) A statutory health corporation must not enter into an agreement under this section without the approval of the Minister.	19
(4) A public hospital, health institution, health service or health support service is not, for the purposes of this or any other Act, to be regarded as being under the control of a statutory health corporation because the statutory health corporation manages, or assists in the management of, the public hospital, health	20

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institution, health service or health support service for and on behalf of another statutory health corporation.	1 2
<b>[3] Schedule 7 Savings and transitional provisions</b>	3
Insert at the end of clause 1 (1):	4
<i>Health Legislation Amendment Act 2010</i> (but only to the extent that it amends this Act)	5 6
<b>3.5 Public Health (Tobacco) Act 2008 No 94</b>	7
<b>Section 39 Notification by person engaging in tobacco retailing</b>	8
Omit “within 7 days” from section 39 (4). Insert instead “within 28 days”.	9