



Health Transparency Bill 2019



Queensland

Health Transparency Bill 2019

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2019

A Bill

for

An Act to facilitate the publication and collection of information about public facilities and private facilities that provide health services, and to amend this Act, the *Health Ombudsman Act 2013*, the *Health Practitioner Regulation National Law Act 2009*, the *Hospital and Health Boards Act 2011*, the *Private Health Facilities Act 1999* and the *Public Health Act 2005* for particular purposes

[s 1]

The Parliament of Queensland enacts—	1
Part 1 Preliminary	2
1 Short title	3
This Act may be cited as the <i>Health Transparency Act 2019</i> .	4
2 Commencement	5
The following provisions commence on a day to be fixed by proclamation—	6
(a) sections 3 to 6;	7
(b) parts 2 to 5;	8
(c) part 6, other than division 4, subdivisions 1 and 2;	9
(d) schedules 1 and 2.	10
3 Purposes of Act	11
The purposes of this Act are—	12
(a) to improve the transparency of the quality and safety of health services provided in Queensland; and	13
(b) to help people make better-informed decisions about their health care.	14
4 How purposes are achieved	15
The purposes of this Act are achieved by enabling the publication and collection of particular types of information about public sector health service facilities, private health facilities, State aged care facilities and private residential aged care facilities.	16
	17
	18
	19
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	23

5	Act binds all persons	1
(1)	This Act binds all persons, including the State.	2
(2)	However, the State can not be prosecuted for an offence against this Act.	3 4
6	Definitions	5
	The dictionary in schedule 1 defines particular words used in this Act.	6 7
Part 2	Information to which Act applies	8 9
7	Information to which Act applies	10
(1)	This Act applies to—	11
(a)	general information about—	12
(i)	public sector health service facilities; and	13
(ii)	private health facilities; and	14
(iii)	State aged care facilities; and	15
(iv)	private residential aged care facilities; and	16
(b)	quality and safety information about—	17
(i)	public sector health service facilities; and	18
(ii)	private health facilities; and	19
(c)	residential care information about—	20
(i)	State aged care facilities; and	21
(ii)	private residential aged care facilities.	22
(2)	This Act applies to information mentioned in subsection (1) that is—	23 24
(a)	publicly available; or	25

[s 8]

- (b) given to the chief executive under or in relation to the administration of this Act; or 1
2
- (c) held by the chief executive as a result of obtaining or having access to the information, or information from which the information was derived— 3
4
5
- (i) under a service agreement under the *Hospital and Health Boards Act 2011*, section 35; or 6
7
- (ii) under the *Hospital and Health Boards Act 2011*, section 138F or 138M; or 8
9
- (iii) because of a report given under the *Private Health Facilities Act 1999*, section 144; or 10
11
- (iv) under the *Public Health Act 2005*, section 217 or 218. 12
13
- (3) Subsection (2)(c) applies to information held by the chief executive on or after the commencement. 14
15

8 What is *general information* 16

General information, about a public sector health service facility, private health facility, State aged care facility or private residential aged care facility, is— 17
18
19

- (a) information that identifies the facility, including, for example— 20
21
- (i) the name, address, phone number and website of the facility; and 22
23
- (ii) whether the facility is a public sector health service facility, day hospital, private hospital, State aged care facility or private residential aged care facility; or 24
25
26
27
- (b) details of the health services provided at or by the facility; or 28
29
- Examples—* 30
- types of clinical specialities provided at or by the facility 31
 - maternity models of care provided at or by the facility 32

- (c) information about other services available at or near the facility that may help people who are admitted at the facility, attending an appointment at the facility or visiting the facility.

Examples—

- information about any carpark at or near the facility
- information about public transport to the facility
- information about interpreter services available at the facility

9 What is *quality and safety information* 10

- (1) *Quality and safety information*, about a public sector health service facility or private health facility, is— 11 12

- (a) information about the facility's accreditation and performance against the National Safety and Quality Health Service Standards; or 13 14 15

Note— 16

The National Safety and Quality Health Service Standards are available on the Australian Commission on Safety and Quality in Health Care's website. 17 18 19

- (b) any of the following information prescribed by regulation— 20 21

- (i) access to care information; 22
- (ii) activity information; 23
- (iii) patient outcome information; 24
- (iv) process of care information; 25
- (v) other information relating to the quality and safety of health services provided at the facility. 26 27

- (2) In this section— 28

access to care information means information about the time frames in which health services are provided to patients at or by the facility, including, for example— 29 30 31

[s 10]

- (a) the percentage of patients treated within clinically recommended times at the facility; and 1
2
- (b) the number of patients waiting for a health service at the facility. 3
4

activity information means— 5

 - (a) information about patients admitted to a facility, including, for example— 6
7
 - (i) the number of patients admitted to and discharged from the facility; and 8
9
 - (ii) the reason for admission; and 10
 - (iii) the length of time spent in the facility; or 11
 - (b) information about patients who are not admitted to a facility, but who receive a service at the facility, including, for example, the number of patients receiving care as an outpatient at the facility. 12
13
14
15

patient outcome information means information about— 16

 - (a) the impact on patients of a health service provided at or by the facility, including, for example, the change in the health of a person, group of people or population that is wholly or partly attributable to the service; or 17
18
19
20
 - (b) the effectiveness of a health service provided at or by the facility, including, for example, the extent to which a health service provided to a person at the facility achieved the best possible outcome for the person's health. 21
22
23
24
25

process of care information means information about processes that are in place to support quality and safety of health services at the facility, including, for example, infection management processes at the facility. 26
27
28
29

- 10 What is residential care information 30**
- (1) *Residential care information*, about a State aged care facility or private residential aged care facility, is— 31
32

-
- (a) information prescribed by regulation about— 1
- (i) the personal care or nursing care provided to 2
residents at the facility; or 3
- (ii) the staffing for the personal care and nursing care 4
provided to residents at the facility; and 5
- (b) information that explains, and helps in understanding, 6
the information mentioned in paragraph (a). 7
- (2) In this section— 8
- resident*, at a State aged care facility or private residential 9
aged care facility, means a person who is provided residential 10
care at the facility. 11

Part 3 Publishing information 12

11 Chief executive may publish information 13

- (1) The chief executive may publish information to which this 14
Act applies. 15
- (2) The chief executive may not publish personal information 16
under this part, other than personal information— 17
- (a) about an individual who takes part in the management of 18
a public sector health service facility, private health 19
facility, State aged care facility or private residential 20
aged care facility; and 21
- (b) that has been made publicly available by the facility. 22

12 How information may be published 23

The chief executive may publish information under this part in 24
any way that allows the information to be accessed by 25
members of the public. 26

Examples of ways of publication— 27

- information published on a website 28
- a report published on the department's website 29

[s 13]

- a printed report available from the department 1

Part 4 Collecting information 2

Division 1 Private residential aged care facilities 3 4

13 Chief executive may request information from approved provider 5 6

The chief executive may, by notice given to the approved provider who provides residential care at a private residential aged care facility, ask the approved provider to give the chief executive the following information about the facility— 7
8
9
10

- (a) general information; 11
- (b) residential care information. 12

14 Form of notice 13

A notice given under section 13 must state— 14

- (a) the purpose for which the information will be used if the information is given; and 15
16
- (b) that it is an offence for the person to whom the notice is given to fail to respond to the notice as mentioned in section 15. 17
18
19

15 Failure to respond to notice 20

A person who is given a notice by the chief executive under section 13 must, unless the person has a reasonable excuse, give the chief executive, within 15 business days after the notice is given— 21
22
23
24

- (a) all of the information requested; or 25

	(b) some of the information requested and a notice informing the chief executive that the remaining information will not be given to the chief executive; or	1 2 3
	(c) if no information requested is to be given—a notice informing the chief executive that none of the information is to be given.	4 5 6
	Maximum penalty—100 penalty units.	7
16	Chief executive may publish information about response to notice	8 9
	(1) This section applies if, under section 15(b) or (c), an approved provider informs the chief executive that information about a private residential aged care facility requested in a notice under section 13 will not be given.	10 11 12 13
	(2) The chief executive may publish—	14
	(a) that fact; and	15
	(b) the name of the private residential aged care facility about which the information was requested.	16 17
	(3) Sections 11(2) and 12 apply to the publication of the information.	18 19
Division 2	Other facilities	20
17	Chief executive may require information about public sector health service facilities and State aged care facilities	21 22 23
	(1) The chief executive may, by notice given to the health service chief executive of a Hospital and Health Service, require the health service chief executive to give the chief executive any of the following information—	24 25 26 27
	(a) general information about a public sector health service facility or State aged care facility that is, or is part of, the Service’s health service area;	28 29 30

[s 18]

- (b) quality and safety information about a public sector health service facility that is, or is part of, the Service's health service area; 1
2
3
- (c) residential care information about a State aged care facility that is, or is part of, the Service's health service area. 4
5
6
- (2) In this section— 7
- health service area*, of a Hospital and Health Service, means a health service area declared for the Service under the *Hospital and Health Boards Act 2011*, section 17. 8
9
10
- health service chief executive*, of a Hospital and Health Service, means the health service chief executive appointed for the Service under the *Hospital and Health Boards Act 2011*, section 33. 11
12
13
14
- 18 Chief executive may require information about private health facilities** 15
16
- (1) The chief executive may, by notice given to the licensee of a private health facility, require the licensee to give the chief executive the following information about the facility— 17
18
19
- (a) general information; 20
- (b) quality and safety information. 21
- (2) In this section— 22
- licensee*, of a private health facility, means the holder of the licence under the *Private Health Facilities Act 1999*, part 6 for the facility. 23
24
25
- 19 Form of notice** 26
- A notice given under section 17 or 18 must state— 27
- (a) the reasonable period within which the information must be given; and 28
29
- (b) the purpose for which the information will be used; and 30

(c)	that it is an offence for the person to whom the notice is given to fail to comply with the notice.	1 2
20	Failure to provide information	3
	A person who is given a notice by the chief executive under section 17 or 18 must comply with the notice, unless the person has a reasonable excuse.	4 5 6
	Maximum penalty—100 penalty units.	7
Part 5	Other provisions	8
21	False or misleading information	9
(1)	A person must not, in relation to the administration of this Act, give the chief executive information the person knows is false or misleading in a material particular.	10 11 12
	Maximum penalty—100 penalty units.	13
(2)	Subsection (1) applies to information given in relation to the administration of this Act whether or not the information was given in response to a specific power under an Act.	14 15 16
(3)	Subsection (1) does not apply to a person if the person, when giving the information in a document—	17 18
(a)	tells the chief executive, to the best of the person’s ability, how the document is false or misleading; and	19 20
(b)	if the person has, or can reasonably obtain, the correct information—gives the correct information.	21 22
22	Confidentiality	23
(1)	This section applies to a person who—	24
(a)	is, or has been, any of the following persons administering, or performing functions or exercising powers under, this Act—	25 26 27

[s 23]

(i)	the chief executive;	1
(ii)	an employee of the department;	2
(iii)	a contractor of the department; and	3
(b)	in that capacity, obtains personal information or has access to, or custody of, personal information.	4 5
(2)	The person must not use or disclose the personal information. Maximum penalty—50 penalty units.	6 7
(3)	However, the person may use or disclose the personal information—	8 9
(a)	to the extent necessary to administer, or perform functions or exercise powers under, this Act; or	10 11
(b)	to, or with the consent of, the individual to whom the information relates; or	12 13
(c)	in compliance with lawful process requiring production of documents or giving of evidence before a court or tribunal; or	14 15 16
(d)	as otherwise required or permitted under another law.	17
23	Delegation	18
	The chief executive may delegate the chief executive’s functions or powers under this Act to an appropriately qualified employee of the department.	19 20 21
24	Regulation-making power	22
	The Governor in Council may make regulations under this Act.	23 24

Part 6	Amendment of Acts	1
Division 1	Amendment of this Act	2
25	Act amended	3
	This division amends this Act.	4
26	Amendment of long title	5
	Long title, from ‘, and to amend’—	6
	<i>omit.</i>	7
Division 2	Amendment of Health Ombudsman Act 2013	8
		9
27	Act amended	10
	This division and schedule 2 amend the <i>Health Ombudsman Act 2013</i> .	11
		12
28	Amendment of s 14 (Dealing with health service complaints and other matters)	13
	(1) Section 14—	14
	<i>insert—</i>	15
		16
	(4A) The health ombudsman may make an order prohibiting a health practitioner other than a registered health practitioner from practising, or imposing restrictions on the practitioner’s practice.	17
		18
		19
		20
		21
	(2) Section 14(5)—	22
	<i>omit, insert—</i>	23
		24
	(5) The health ombudsman may refer a matter	24

[s 29]

	concerning a registered health practitioner to the director of proceedings for decision about whether proceedings should be taken against the practitioner before QCAT.	1 2 3 4
(3)	Section 14(6), ‘professional misconduct and certain other’— <i>omit, insert</i> — certain	5 6 7
(4)	Section 14(4A) to (9)— <i>renumber</i> as section 14(5) to (10).	8 9
29	Amendment of s 16 (Disciplinary orders)	10
(1)	Section 16, heading, after ‘orders’— <i>insert</i> — of QCAT and other jurisdictions	11 12 13
(2)	Section 16(2)— <i>omit, insert</i> — (2) Orders of other jurisdictions that prohibit a health practitioner other than a registered health practitioner from practising, or impose restrictions on the practitioner’s practice, also apply in Queensland.	14 15 16 17 18 19 20
30	Amendment of s 33 (How to make a complaint)	21
	Section 33(2)— <i>omit, insert</i> — (2) If a complaint is made orally— (a) the health ombudsman must make a record of the complaint; and (b) if the health ombudsman decides not to accept the complaint at the time it is made and gives notice of the decision as	22 23 24 25 26 27 28 29

	mentioned in section 278(2), the health	1
	ombudsman must include details of the	2
	decision in the record made under paragraph	3
	(a).	4
31	Amendment of s 35 (Deciding how to proceed)	5
(1)	Section 35, heading, after ‘proceed’—	6
	<i>insert—</i>	7
	generally	8
(2)	Section 35(1), before ‘days’—	9
	<i>insert—</i>	10
	business	11
(3)	Section 35(1)(a)(ii)—	12
	<i>omit, insert—</i>	13
	(ii) to accept the complaint and take no further	14
	action in relation to it; or	15
	<i>Note—</i>	16
	See section 44 for the grounds on which the health	17
	ombudsman may decide to take no further action on a	18
	complaint.	19
	(iii) not to accept the complaint; and	20
(4)	Section 35(2)—	21
	<i>omit, insert—</i>	22
	(2) For deciding the number of business days for	23
	subsection (1), the following days are not	24
	counted—	25
	(a) any business days on which there is an	26
	outstanding requirement under section 34;	27
	(b) any business days necessary to comply with	28
	division 2A for the complaint.	29

[s 32]

32	Insertion of new s 35A and pt 3, divs 2A and 2B	1
	After section 35—	2
	<i>insert—</i>	3
	35A Non-acceptance of complaint	4
	The health ombudsman may decide not to accept a complaint if the health ombudsman is satisfied—	5 6 7
	(a) the complaint would be more appropriately dealt with by an entity other than the health ombudsman or an entity to whom the health ombudsman may refer the complaint under this Act; or	8 9 10 11 12
	(b) the complainant has not sought a resolution of the complaint with the relevant health service provider and it is reasonable in the circumstances for the complainant to first seek the resolution.	13 14 15 16 17
	Division 2A Dealing with complaint concerning registered health practitioner	18 19 20
	35B Application of division	21
	(1) This division applies if the health ombudsman accepts a complaint concerning the health, conduct or performance of a registered health practitioner.	22 23 24 25
	(2) Nothing in this division prevents the health ombudsman deciding to take immediate action under part 7 in relation to the complaint.	26 27 28

35C Notifying National Agency of complaint	1
(1) The health ombudsman must, as soon as practicable after accepting the complaint—	2 3
(a) notify the National Agency that the health ombudsman has accepted the complaint; and	4 5 6
(b) give to the National Agency—	7
(i) a copy of the complaint or, if the complaint was not made in writing, a copy of the health ombudsman’s record of the details of the complaint; and	8 9 10 11
(ii) any other information the health ombudsman has that is relevant to the complaint.	12 13 14
(2) The National Agency may give the health ombudsman the Agency’s preliminary view about how the complaint should be dealt with within 5 business days after the Agency is notified of the complaint.	15 16 17 18 19
35D Dealing with complaint if no preliminary view	20
(1) This section applies if the National Agency does not provide a preliminary view about how the complaint should be dealt with within the period stated in section 35C(2).	21 22 23 24
(2) The health ombudsman may deal with the complaint under this Act without further consulting the National Agency, other than to the extent required under division 2B.	25 26 27 28
35E Dealing with complaint if agreement on preliminary view	29 30
(1) This section applies if the National Agency provides a preliminary view about how the	31 32

[s 32]

complaint should be dealt with within the period 1
stated in section 35C(2) and the health 2
ombudsman agrees with the preliminary view. 3

- (2) The health ombudsman must ensure the way the 4
complaint is dealt with under this Act is consistent 5
with the agreed view. 6

**35F Further negotiation if disagreement on 7
preliminary view 8**

- (1) This section applies if the National Agency 9
provides a preliminary view about how the 10
complaint should be dealt with within the period 11
stated in section 35C(2) and the health 12
ombudsman does not agree with the preliminary 13
view. 14

- (2) The health ombudsman must attempt to reach 15
agreement with the National Agency about how 16
the complaint is to be dealt with within 15 17
business days after the Agency gives its 18
preliminary view. 19

**35G Dealing with complaint if no agreement after 20
further negotiation or no further negotiation 21**

- (1) This section applies if the health ombudsman and 22
National Agency do not reach an agreement about 23
how the complaint should be dealt with under 24
section 35F. 25

- (2) The health ombudsman must deal with the 26
complaint as follows— 27

(a) if the health ombudsman believes the 28
complaint indicates a serious matter within 29
the meaning of section 91C— 30

- (i) the health ombudsman must not refer 31
the serious matter to the National 32

Agency and must deal with the serious matter under this Act; and	1 2
(ii) the health ombudsman must deal with any other matter arising from the complaint as mentioned in paragraph (b) to (d) as if the other matter were the subject of a separate complaint;	3 4 5 6 7
(b) if the health ombudsman believes the complaint should be the subject of an assessment under part 5, an investigation under part 8 or a referral to the director of proceedings under part 10, division 2—the health ombudsman must not refer the complaint to the National Agency and must deal with the complaint under this Act;	8 9 10 11 12 13 14 15
(c) if neither paragraph (a) nor (b) applies and the health ombudsman, or the National Agency, believes the complaint should be referred to the National Agency—the health ombudsman must refer the complaint to the National Agency to deal with under the National Law;	16 17 18 19 20 21 22
(d) otherwise—the health ombudsman must deal with the complaint under this Act, whether or not in further consultation with the National Agency.	23 24 25 26
35H Dealing with complaint if agreement after further negotiation	27 28
(1) This section applies if the health ombudsman and National Agency reach an agreement about how the complaint should be dealt with under section 35F.	29 30 31 32
(2) The health ombudsman must ensure the way the complaint is dealt with under this Act is consistent with the agreement.	33 34 35

[s 32]

Division 2B **Proposal to take no further** 1
 action in relation to 2
 registered health 3
 practitioner 4

35I Application of division 5

- (1) This division applies if— 6
- (a) the health ombudsman— 7
 - (i) accepts a complaint concerning the 8
health, conduct or performance of a 9
registered health practitioner; and 10
 - (ii) proposes to take no further action in 11
relation to the complaint; and 12
 - (b) the subject matter of the complaint has not 13
been referred to the National Agency under 14
another provision of this Act or the National 15
Law. 16
- (2) However, this division does not apply if the 17
proposal is consistent with the preliminary view, 18
about how the complaint should be dealt with, 19
provided by the National Agency under division 20
2A. 21

35J Notifying National Agency of proposal 22

The health ombudsman must, as soon as 23
practicable after forming the proposal— 24

- (a) notify the National Agency that the health 25
ombudsman proposes to take no further 26
action in relation to the complaint, and 27
include in the notification the health 28
ombudsman’s reasons for the proposal; and 29
- (b) give to the National Agency— 30

-
- (i) a copy of the complaint or, if the complaint was not made in writing, a copy of the health ombudsman’s record of the details of the complaint; and
 - (ii) any other information the health ombudsman has that is relevant to the complaint.

35K National Agency may request referral

- (1) The National Agency may ask the health ombudsman to refer the subject matter of the complaint to the Agency, to be dealt with under the National Law, within 7 business days after the Agency is notified of the health ombudsman’s proposal under section 35J.
- (2) The health ombudsman must comply with a request made under subsection (1).
- (3) If the health ombudsman refers a matter to the National Agency under this section, the health ombudsman must give notice of the referral to the complainant and the registered health practitioner.

35L Dealing with complaint if no referral

If the National Agency does not make a request under section 35K within the period stated in that section, the health ombudsman may deal with the complaint under this Act without further consulting the National Agency.

33 Amendment of s 38 (Meaning of *relevant action*)

- (1) Section 38(1)—

insert—

- (da) issuing a prohibition order under part 8A;

[s 34]

(2)	Section 38(1)(f), before ‘referring’—	1
	<i>insert</i> —	2
	for a health service complaint concerning a registered health practitioner,	3 4
(3)	Section 38(1)(da) to (h)—	5
	<i>renumber</i> as section 38(1)(e) to (i).	6
(4)	Section 38(3)—	7
	<i>insert</i> —	8
	(ba) issuing a prohibition order under part 8A;	9
(5)	Section 38(3)(d), before ‘referring’—	10
	<i>insert</i> —	11
	for a matter relating to a registered health practitioner,	12 13
(6)	Section 38(3)(ba) to (e)—	14
	<i>renumber</i> as section 38(3)(c) to (f).	15
34	Amendment of s 49 (Period for completing assessment)	16
(1)	Section 49, ‘30 days’—	17
	<i>omit, insert</i> —	18
	22 business days	19
(2)	Section 49—	20
	<i>insert</i> —	21
	(3) Also, for deciding the number of business days for subsection (1), any business days on which the health ombudsman is awaiting the outcome of a notification given under section 35J in relation to the complaint are not counted.	22 23 24 25 26

35	Amendment of s 55 (Period for attempting resolution)	1
(1)	Section 55, ‘30 days’—	2
	<i>omit, insert—</i>	3
	22 business days	4
(2)	Section 55—	5
	<i>insert—</i>	6
(3)	Also, for deciding the number of business days for subsection (1), any business days on which the health ombudsman is awaiting the outcome of a notification given under section 35J in relation to the complaint are not counted.	7 8 9 10 11
36	Amendment of s 58B (Varying immediate registration action on application by registered health practitioner)	12 13
(1)	Section 58B(5)(a) and (7), ‘written’—	14
	<i>omit.</i>	15
(2)	Section 58B(5)(b)—	16
	<i>renumber</i> as section 58B(5)(c).	17
(3)	Section 58B(5)—	18
	<i>insert—</i>	19
	(b) the health ombudsman must give notice of the variation to—	20 21
	(i) the relevant National Board; and	22
	(ii) if the immediate registration action was taken in response to a complaint—the complainant; and	23 24 25
(4)	Section 58B(7)(b), ‘7 days’—	26
	<i>omit, insert—</i>	27
	5 business days	28

[s 37]

37	Replacement of s 64 (Health ombudsman must immediately take further relevant action)	1 2
	Section 64—	3
	<i>omit, insert—</i>	4
	64 Further relevant action that may be taken after immediate registration action	5 6
	(1) The health ombudsman may only take the following relevant action in relation to the matter giving rise to immediate registration action taken in relation to a registered health practitioner—	7 8 9 10
	(a) investigate the matter under part 8;	11
	(b) refer the matter to the National Agency or an entity of the State, another State or the Commonwealth under part 9;	12 13 14
	(c) refer the matter to the director of proceedings under part 10, division 2.	15 16
	(2) The health ombudsman must take the relevant action mentioned in subsection (1)(a), (b) or (c)—	17 18
	(a) if the matter is the subject of a complaint to which part 3, division 2A applies— immediately after the process under that division is completed; or	19 20 21 22
	(b) otherwise—immediately after the immediate registration action is taken.	23 24
38	Amendment of s 73 (Period of interim prohibition order)	25
	Section 73(2)—	26
	<i>omit, insert—</i>	27
	(2) The order continues to have effect until the earliest of the following happens—	28 29
	(a) the order ends under section 90H;	30

	<i>Note—</i>	1
	Section 90H provides for the ending of an interim prohibition order issued to a health practitioner in relation to a health service complaint or other matter when a prohibition order issued to the practitioner for the complaint or matter takes effect.	2 3 4 5 6 7
	(b) QCAT sets aside the decision to issue the order on application by the practitioner for a review of the decision;	8 9 10
	(c) the health ombudsman revokes the order under section 76.	11 12
39	Amendment of s 90 (Notice of decision after investigating matter)	13 14
	Section 90, after ‘a matter’—	15
	<i>insert—</i>	16
	under this part	17
40	Insertion of new pt 8A	18
	After part 8—	19
	<i>insert—</i>	20
	Part 8A Prohibition orders	21
	Division 1 Preliminary	22
	90A Application of part	23
	This part does not apply to a person in the person’s capacity as a registered health practitioner.	24 25 26

[s 40]

90B Prohibition order	1
A <i>prohibition order</i> is an order issued to a health practitioner—	2 3
(a) prohibiting the practitioner, either permanently or for a stated period, from providing any health service or a stated health service; or	4 5 6 7
(b) imposing stated restrictions on the provision of any health service, or a stated health service, by the practitioner.	8 9 10
Division 2 Issue of prohibition order	11
90C Power to issue order	12
(1) The health ombudsman may issue a prohibition order to a health practitioner (other than in the person's capacity as a registered health practitioner) if the health ombudsman—	13 14 15 16
(a) has completed an investigation under part 8 relating to the practitioner; and	17 18
(b) is satisfied that, because of the practitioner's health, conduct or performance, the practitioner poses a serious risk to persons.	19 20 21
(2) Without limiting subsection (1)(b), the serious risk posed to a person by a health practitioner may be a serious risk of harm caused by the practitioner—	22 23 24 25
(a) practising the practitioner's profession unsafely, incompetently or while intoxicated by alcohol or drugs; or	26 27 28
(b) financially exploiting the person; or	29
(c) engaging in a sexual or improper personal relationship with the person; or	30 31

(d) discouraging the person from seeking clinically accepted care or treatment; or	1 2
(e) making false or misleading claims about the health benefits of a particular health service; or	3 4 5
(f) making false or misleading claims about the practitioner's qualifications, training, competence or professional affiliations.	6 7 8
(3) In deciding under subsection (1)(b) whether, because of a health practitioner's health, conduct or performance, the practitioner poses a serious risk to persons, the health ombudsman may have regard to a prescribed conduct document under section 288.	9 10 11 12 13 14
90D Show cause process	15
(1) If the health ombudsman proposes to issue a prohibition order to a health practitioner, the health ombudsman must give the practitioner a notice—	16 17 18 19
(a) stating the proposed order; and	20
(b) inviting the practitioner to make a written submission to the health ombudsman, within a stated period of at least 20 business days, about the proposed order.	21 22 23 24
(2) The health ombudsman must have regard to any written submissions made by the practitioner within the stated period before deciding whether to issue the prohibition order.	25 26 27 28
90E Content of order	29
A prohibition order—	30
(a) must state the details of the order that apply to the health practitioner; and	31 32

[s 40]

- (b) must also state, or be accompanied by a notice that states, the following—
 - (i) the reasons for the decision to issue the order;
 - (ii) that the practitioner may apply to QCAT for a review of the decision to issue the order;
 - (iii) how, and the period within which, the practitioner may apply for the review of the decision.

90F Notice to complainant 11

If a prohibition order was issued in response to a complaint, the health ombudsman must give the complainant a notice stating the details of the order that apply to the health practitioner. 12
13
14
15

90G When order takes effect 16

A prohibition order takes effect on the day it is given to the health practitioner or, if a later day is stated in the order, the later day. 17
18
19

90H Prohibition order ends interim prohibition order 20
21

If the health ombudsman issues a prohibition order to a health practitioner in relation to a health service complaint or other matter, any interim prohibition order issued to the practitioner in relation to that complaint or matter ends when the prohibition order takes effect. 22
23
24
25
26
27

Division 3 Variation or revocation of prohibition order 28
29

90I Power to vary order on health ombudsman’s own initiative	1 2
The health ombudsman may, at any time after issuing a prohibition order to a health practitioner, vary the order if—	3 4 5
(a) there has been a material change in relation to the matter giving rise to the issue of the order; and	6 7 8
(b) the health ombudsman reasonably believes the change justifies varying the order; and	9 10
(c) the variation is on the grounds mentioned in section 90C.	11 12
90J Power to vary order on application by health practitioner	13 14
(1) A health practitioner may apply to the health ombudsman to vary a prohibition order issued to the practitioner if there is a material change in relation to the matter giving rise to the issue of the order.	15 16 17 18 19
(2) An application under subsection (1) must be—	20
(a) in the approved form; and	21
(b) accompanied by any other information reasonably required by the health ombudsman.	22 23 24
(3) The health ombudsman must consider the application and decide—	25 26
(a) to vary the prohibition order in the way requested in the application; or	27 28
(b) to vary the prohibition order in a way different to the way requested in the application; or	29 30 31
(c) not to vary the prohibition order.	32

[s 40]

(4)	The health ombudsman may vary the prohibition order only if—	1 2
(a)	there has been a material change in relation to the matter giving rise to the issue of the order; and	3 4 5
(b)	the health ombudsman reasonably believes the change justifies varying the order; and	6 7
(c)	the variation is on the grounds mentioned in section 90C.	8 9
	90K Show cause process	10
(1)	This section applies if the health ombudsman proposes to do any of the following (each a <i>show cause decision</i>)—	11 12 13
(a)	vary a prohibition order under section 90I;	14
(b)	vary a prohibition order under section 90J in a way different to the way requested in the application under that section;	15 16 17
(c)	not to vary a prohibition order under section 90J in response to an application under that section.	18 19 20
(2)	Section 90D applies to the health ombudsman making the show cause decision—	21 22
(a)	as if a reference in the section to the health ombudsman issuing a prohibition order were a reference to the health ombudsman making the show cause decision; and	23 24 25 26
(b)	with any other necessary changes.	27
	90L Effect of decision to vary and notice requirements	28 29
(1)	If the health ombudsman varies a prohibition order issued to a health practitioner under this	30 31

-
- division— 1
- (a) the health ombudsman must— 2
- (i) give the practitioner a replacement 3
prohibition order that reflects the 4
variation; and 5
- (ii) if the prohibition order was issued in 6
response to a complaint, give the 7
complainant a notice stating the details 8
of the order, as varied, that apply to the 9
practitioner; and 10
- (b) the variation takes effect when the 11
replacement prohibition order is given to the 12
practitioner, or on a later day stated in the 13
order; and 14
- (c) the prohibition order as in effect before the 15
variation ends when the variation takes 16
effect. 17
- (2) If the health ombudsman makes a decision 18
mentioned in section 90K(1)(a), (b) or (c), the 19
health ombudsman must give the health 20
practitioner a notice stating the following— 21
- (a) the decision; 22
- (b) the reasons for the decision; 23
- (c) that the practitioner may apply to QCAT for 24
a review of the decision; 25
- (d) how, and the period within which, the 26
practitioner may apply for the review of the 27
decision. 28

90M Revocation of order 29

- (1) This section applies if, at any time after issuing a 30
prohibition order to a health practitioner, the 31
health ombudsman is satisfied the order is no 32
longer necessary on the grounds mentioned in 33

[s 40]

section 90C.	1
(2) The health ombudsman must—	2
(a) revoke the order; and	3
(b) give notice of the revocation to the practitioner and, if the order was issued in response to a complaint, to the complainant.	4 5 6
Division 4 Other provisions	7
90N Application to QCAT for review	8
(1) This section applies if the health ombudsman decides—	9 10
(a) to issue a prohibition order to a health practitioner; or	11 12
(b) to vary a prohibition order issued to a health practitioner under section 90I; or	13 14
(c) to vary a prohibition order issued to a health practitioner in a way different to the way requested in an application by the practitioner under section 90J; or	15 16 17 18
(d) not to vary a prohibition order issued to a health practitioner under section 90J in response to an application under that section.	19 20 21 22
(2) The health practitioner may apply, as provided under the QCAT Act, to QCAT for a review of the decision.	23 24 25
90O Corresponding interstate orders	26
A regulation may prescribe an order to be a corresponding interstate order if the order—	27 28
(a) is issued under a law of another State; and	29

-
- (b) corresponds, or substantially corresponds, to 1
a prohibition order under this part. 2

90P Offence of contravening prohibition order 3

A person must not contravene a prohibition order 4
or corresponding interstate order. 5

Maximum penalty—200 penalty units. 6

90Q Publication of prohibition orders 7

(1) The health ombudsman must publish, on a 8
publicly accessible website of the health 9
ombudsman, the following information about 10
each current prohibition order— 11

(a) the name of the health practitioner to whom 12
the order was issued; 13

(b) the day the order took effect; 14

(c) the details of the order mentioned in section 15
90B(a) or (b) that apply to the practitioner; 16

(d) the details of any variation of the order 17
under division 3. 18

(2) The health ombudsman must also publish, on a 19
publicly accessible website of the health 20
ombudsman, information about corresponding 21
interstate orders of which the health ombudsman 22
is aware that corresponds to the information 23
mentioned in subsection (1)(a) to (d). 24

(3) The information may also be published to the 25
public in another way the health ombudsman 26
considers appropriate. 27

(4) This section applies subject to any 28
non-publication order under the QCAT Act or 29
court order about publication of information. 30

(5) The health ombudsman must not publish 31

[s 41]

	information that the health ombudsman considers it would be inappropriate to publish.	1 2
41	Replacement of s 91 (Referral to National Agency)	3
	Section 91—	4
	<i>omit, insert—</i>	5
	Division 1 Referral to National Agency	6 7
	91 Application of division	8
	This division applies to a health service complaint or other matter concerning a registered health practitioner.	9 10 11
	91A General power to refer complaint or matter	12
	The health ombudsman may refer the health service complaint or other matter to the National Agency.	13 14 15
	91B Requirement to refer complaint or matter indicating impairment	16 17
	The health ombudsman must refer the health service complaint or other matter to the National Agency if it indicates the health practitioner has or may have an impairment.	18 19 20 21
	91C Complaint or matter indicating serious matter must not be referred	22 23
	(1) The health ombudsman must not refer the health service complaint or other matter to the National Agency if it relates to, or is, a matter (a <i>serious matter</i>)—	24 25 26 27

-
- (a) that indicates either or both of the following—
- (i) the registered health practitioner may have behaved in a way that constitutes professional misconduct;
 - (ii) another ground may exist for the suspension or cancellation of the registered health practitioner’s registration; and
- (b) that the health ombudsman is satisfied should be dealt with by the health ombudsman.

Note—

A health service complaint or other matter indicating a matter mentioned in subsection (1)(a) may be referred to the director of proceedings who may refer it to QCAT on the health ombudsman’s behalf under section 103.

- (2) In deciding whether to be satisfied as mentioned in subsection (1)(b), the health ombudsman must have regard to—
- (a) whether the registered health practitioner’s behaviour is of such a serious nature that it may only be appropriately dealt with by the health ombudsman; and
 - (b) whether the matter involves a significant issue for the health and safety of the public.

91D Dealing with complaint indicating impairment matter and serious matter

- (1) This section applies if a health service complaint indicates both of the following—
- (a) a matter that must be referred to the National Agency under section 91B (an *impairment matter*);

[s 41]

(b)	a matter that must not be referred to the National Agency under section 91C (a <i>serious matter</i>).	1 2 3
(2)	The health ombudsman—	4
(a)	must deal with the impairment matter and serious matter separately under section 41; and	5 6 7
(b)	must refer the impairment matter to the National Agency under section 91B; and	8 9
(c)	must not refer the serious matter to the National Agency under section 91C.	10 11
91E Form of referral		12
(1)	If the health ombudsman refers a health service complaint or other matter to the National Agency under this division, the health ombudsman must give the National Agency all relevant information the health ombudsman has about the complaint or other matter, including, for a health service complaint—	13 14 15 16 17 18 19
(a)	details of the complaint, the complainant and the relevant health service provider; and	20 21
(b)	if the health ombudsman intends to start or continue conciliating the complaint while or after the National Agency or a National Board deals with it—notice of that intention.	22 23 24 25 26
(2)	In this section— <i>information</i> includes a submission.	27 28
Division 2	Referral to other entities	29

42	Amendment of s 94 (QCAT’s jurisdiction)	1
(1)	Section 94(1)(a)(iv), ‘and’—	2
	<i>omit, insert—</i>	3
	or	4
(2)	Section 94(1)(a)—	5
	<i>insert—</i>	6
	(v) to issue a prohibition order to a health practitioner; or	7 8
	(vi) to vary a prohibition order issued to a health practitioner on the health ombudsman’s own initiative; or	9 10 11
	(vii) to vary a prohibition order issued to a health practitioner in a way different to the way requested in an application by the practitioner; or	12 13 14 15
	(viii) not to vary a prohibition order issued to a health practitioner in response to an application by the practitioner; and	16 17 18
(3)	Section 94(1)(b), after ‘matter’—	19
	<i>insert—</i>	20
	concerning a registered health practitioner	21
43	Amendment of s 96 (Orders that QCAT may make)	22
(1)	Section 96(2)—	23
	<i>omit.</i>	24
(2)	Section 96(3) and (4)—	25
	<i>renumber</i> as section 96(2) and (3).	26
44	Amendment of s 97 (Constitution of QCAT)	27
(1)	Section 97(2)—	28

[s 45]

	<i>renumber</i> as section 97(3).	1
(2)	Section 97—	2
	<i>insert</i> —	3
	(2) Subsection (1) does not apply to a proceeding for—	4 5
	(a) the review of a decision by the health ombudsman mentioned in section 94(1)(a) relating to an interim prohibition order or prohibition order; or	6 7 8 9
	(b) the review of an appealable decision under the National Law, section 199 relating to a decision made under the National Law, part 7.	10 11 12 13
45	Amendment of s 100 (No stay of decision to take immediate action)	14 15
(1)	Section 100, heading, from ‘decision’—	16
	<i>omit, insert</i> —	17
	particular decisions	18
(2)	Section 100(1)—	19
	<i>insert</i> —	20
	(c) a decision of the health ombudsman to issue a prohibition order under part 8A.	21 22
46	Amendment of s 101 (Application of div 2)	23
	Section 101, after ‘matter’—	24
	<i>insert</i> —	25
	concerning a registered health practitioner	26

47	Amendment of s 103 (How director must deal with referral)	1 2
	(1) Section 103(2)—	3
	<i>omit, insert—</i>	4
	(2) If the director refers the matter back to the health ombudsman, the director may—	5 6
	(a) recommend that particular further action be taken by the health ombudsman; or	7 8
	(b) request that the health ombudsman obtain stated information or information of a stated kind under this Act.	9 10 11
	<i>Example—</i>	12
	The director may be unable to decide if a matter should be referred to QCAT or may consider that further evidence is needed to conduct a proceeding for the matter before QCAT. The director may refer the matter back to the health ombudsman with a recommendation that the health ombudsman further investigate the matter under part 8. Alternatively, the director may request that the health ombudsman obtain particular information.	13 14 15 16 17 18 19 20
	(2) Section 103(4), from ‘to QCAT’ to ‘practitioner’—	21
	<i>omit, insert—</i>	22
	the matter to QCAT	23
48	Amendment of s 105 (Referral back to health ombudsman)	24 25
	Section 105—	26
	<i>insert—</i>	27
	(2) However, if the referral requests that the health ombudsman obtain stated information or information of a stated kind, the health ombudsman must—	28 29 30 31
	(a) obtain the stated information or information of the stated kind; and	32 33

[s 49]

	(b) refer the matter back to the director to deal with under section 103 on the basis of the information.	1 2 3
49	Replacement of pt 10, div 3, hdg (Matters relating to registered health practitioners)	4 5
	Part 10, division 3, heading—	6
	<i>omit, insert—</i>	7
	Division 3 Action QCAT may take	8
50	Amendment of s 107 (Decision about registered health practitioner other than student)	9 10
	(1) Section 107(1), after ‘matter’—	11
	<i>insert—</i>	12
	concerning a registered health practitioner, other than a student,	13 14
	(2) Section 107(4), note—	15
	<i>omit, insert—</i>	16
	<i>Notes—</i>	17
	1 Sections 21 and 22 provide for the application of this Act to a person as if the person were a registered health practitioner.	18 19 20
	2 The National Law, section 205 provides for the relevant National Board to give effect to QCAT’s decision.	21 22 23
	(3) Section 107(5), and note after subsection (5)—	24
	<i>omit.</i>	25
51	Amendment of s 108 (Decision about student)	26
	(1) Section 108(1)—	27
	<i>omit, insert—</i>	28

	(1) This section applies in relation to a matter concerning a registered health practitioner who is a student that is referred to QCAT by the director of proceedings under section 103.	1 2 3 4
	(2) Section 108(2), ‘a matter about the student’— <i>omit, insert</i> — the matter	5 6 7
52	Omission of pt 10, div 4 (Matters relating to practitioners other than registered health practitioners) Part 10, division 4— <i>omit.</i>	8 9 10 11
53	Amendment of s 140 (When conciliation may happen if other relevant action is taken) Section 140, heading and subsection (1), before ‘other’— <i>insert</i> — particular	12 13 14 15 16
54	Amendment of s 186 (Functions of authorised persons) Section 186— <i>insert</i> — (c) to investigate or monitor the activities of a person the subject of immediate registration action taken, or an interim prohibition order issued, by the health ombudsman under part 7, while the action or order is in effect.	17 18 19 20 21 22 23 24
55	Amendment of s 203 (Issue of warrant) Section 203(1)— <i>insert</i> —	25 26 27

[s 56]

	(c) of a person carrying out an activity the person is not authorised to carry out because of immediate registration action taken, or an interim prohibition order issued, by the health ombudsman under part 7.	1 2 3 4 5
56	Amendment of s 228 (Power to require information or attendance)	6 7
	(1) Section 228(2), from ‘information’— <i>omit, insert</i> — information (the <i>relevant information</i>)—	8 9 10
	(a) about a matter being investigated by the health ombudsman; or	11 12
	(b) about a health practitioner’s compliance with immediate action taken against the practitioner under part 7; or	13 14 15
	(c) that is information, or information of a kind, requested by the director of proceedings in a referral under section 103(2)(b).	16 17 18
	(2) Section 228(3)(a), ‘matter being investigated’— <i>omit, insert</i> — that is or relates to the relevant information	19 20 21
	(3) Section 228(3)(b), ‘matter being investigated’— <i>omit, insert</i> — the relevant information	22 23 24
57	Amendment of s 259 (Functions)	25
	(1) Section 259(1)(a), after ‘matters’— <i>insert</i> — concerning registered health practitioners	26 27 28
	(2) Section 259(1)(b), ‘prosecute’—	29

<i>omit, insert—</i>	1
conduct proceedings for	2
58 Amendment of s 260 (Director not subject to direction)	3
Section 260, ‘to QCAT or about the prosecution’—	4
<i>omit, insert—</i>	5
concerning a registered health practitioner to	6
QCAT or about the conduct	7
59 Amendment of s 273 (Publication of information about immediate action and QCAT decisions)	8
(1) Section 273(1)(b)—	9
<i>renumber</i> as section 273(1)(c).	10
(2) Section 273(1)—	11
<i>insert—</i>	12
(b) a prohibition order issued under part 8A; or	13
	14
60 Amendment of s 278 (Notice of decision relating to complaint)	15
(1) Section 278(1)(a)—	16
<i>omit, insert—</i>	17
(a) the decision;	18
(2) Section 278(2) and (3)—	19
<i>renumber</i> as section 278(3) and (4).	20
(3) Section 278—	21
<i>insert—</i>	22
(2) If the decision is a decision not to accept a health	23
service complaint made orally, the requirement to	24
give notice under subsection (1) applies as	25
follows—	26
	27

[s 61]

	(a) the notice to the complainant may be given orally at the time when the complaint is made;	1 2 3
	(b) if notice to the complainant is given as mentioned in paragraph (a), the health ombudsman is not required to give notice of the complaint, or the decision not to accept it, to the relevant health service provider.	4 5 6 7 8
61	Amendment of s 279 (Notice to employers about particular serious matters)	9 10
	(1) Section 279(1)(b)(iii), ‘for QCAT to make’— <i>omit.</i>	11 12
	(2) Section 279(1)— <i>insert—</i>	13 14
	(c) issues a prohibition order to a health practitioner under part 8A, division 2; or	15 16
	(d) varies a prohibition order issued to a health practitioner under part 8A, division 3.	17 18
	(3) Section 279(2) and (3), ‘or investigation’— <i>omit, insert—</i>	19 20
	, the investigation or the issue or variation of the prohibition order,	21 22
	(4) Section 279(5), from ‘any immediate’ to ‘matter’— <i>omit, insert—</i>	23 24
	the immediate action, take no further action in relation to the complaint or other matter the subject of the investigation, or revoke the prohibition order	25 26 27 28
62	Amendment of s 285 (Delegations)	29
	(1) Section 285(2)(b)—	30

<i>renumber</i> as section 285(2)(c).	1
(2) Section 285(2)—	2
<i>insert</i> —	3
(b) issuing a prohibition order under part 8A;	4
63 Insertion of new pt 21, div 3	5
Part 21—	6
<i>insert</i> —	7
Division 3 Transitional provisions for Health Transparency Act 2019	8 9 10
Subdivision 1 General provisions	11
320C Existing complaints or other matters	12
(1) This section applies to a health service complaint or other matter that—	13 14
(a) the health ombudsman started, but has not finished, dealing with under this Act before the commencement; or	15 16 17
(b) the director of proceedings refers to the health ombudsman under section 320F.	18 19
(2) The health ombudsman must deal with the complaint or matter under this Act as in force after the commencement to the greatest practicable extent.	20 21 22 23
(3) Without limiting subsection (2)—	24
(a) section 35A applies in relation to a health service complaint made before the commencement if, on the commencement, the health ombudsman has not given notice	25 26 27 28

[s 63]

of a decision under section 35 in relation to the complaint; and	1 2
(b) part 8A applies to a health practitioner (other than in the person’s capacity as a registered health practitioner) the subject of an investigation under part 8—	3 4 5 6
(i) completed before the commencement; or	7 8
(ii) started before the commencement and completed after the commencement; and	9 10 11
(c) part 9, division 1 applies in relation to the health ombudsman deciding whether or not to refer a health service complaint or other matter to the National Agency if, on the commencement, the health ombudsman has not referred the complaint or matter to the National Agency.	12 13 14 15 16 17 18
320D Existing immediate action	19
(1) Section 90H applies to an interim prohibition order made before the commencement that is still in effect on the commencement.	20 21 22
(2) Sections 186, 203 and 228 as in force after the commencement apply to immediate action taken under part 7 before the commencement if the immediate action is still in effect on the commencement.	23 24 25 26 27
Subdivision 2 Additional provision about registered health practitioners	28 29 30

320E Dealing with existing complaint	1
(1) This section applies to a health service complaint concerning the health, conduct or performance of a registered health practitioner if—	2 3 4
(a) it was made before the commencement; and	5
(b) on the commencement, the health ombudsman has not given notice of a decision under section 35 in relation to the complaint.	6 7 8 9
(2) Part 3, divisions 2A and 2B apply in relation to the health service complaint.	10 11
Subdivision 3 Additional provisions about other health practitioners	12 13 14
320F Existing referrals to director of proceedings	15
(1) This section applies to a health service complaint or other matter about a health practitioner, other than in the person’s capacity as a registered health practitioner—	16 17 18 19
(a) that the health ombudsman referred to the director of proceedings under part 10, division 2 before the commencement; and	20 21 22
(b) that, on the commencement, the director has not started, or has started but not finished, dealing with under part 10, division 2.	23 24 25
(2) The director must refer the complaint or matter to the health ombudsman to deal with under this Act as in force after the commencement.	26 27 28
320G Existing proceedings for prohibition orders	29
(1) This section applies if—	30

[s 63]

- (a) before the commencement, a matter 1
concerning a health practitioner other than a 2
registered health practitioner was referred to 3
QCAT by the director of proceedings on the 4
health ombudsman's behalf under section 5
103; and 6
- (b) on the commencement, QCAT has not 7
finally dealt with the matter. 8
- (2) QCAT may deal, or continue to deal, with the 9
matter under this Act as in force before the 10
commencement as if the *Health Transparency Act* 11
2019, part 6, division 2 had not been enacted. 12
- (3) If QCAT makes a prohibition order under 13
subsection (2), this Act as in force before the 14
commencement continues to apply to any appeal 15
or other proceeding relating to the making of the 16
prohibition order as if the *Health Transparency* 17
Act 2019, part 6, division 2 had not been enacted. 18
- (4) Sections 90P and 90Q apply to a prohibition order 19
made under subsection (2) as if a reference to a 20
prohibition order in the sections included a 21
reference to a prohibition order made under 22
subsection (2). 23

320H Existing prohibition orders 24

- (1) This section applies to a prohibition order made 25
under this Act as in force before the 26
commencement that is still in effect on the 27
commencement. 28
- (2) The prohibition order continues in effect. 29
- (3) This Act as in force before the commencement 30
applies, or continues to apply, to any appeal or 31
other proceeding relating to the making of the 32
prohibition order as if the *Health Transparency* 33
Act 2019, part 6, division 2 had not been enacted. 34

	(4) Sections 90P and 90Q apply to the prohibition order as if a reference to a prohibition order in the sections included a reference to a prohibition order continued under subsection (2).	1 2 3 4
64	Amendment of sch 1 (Dictionary)	5
	(1) Schedule 1, definitions <i>appropriately qualified</i> , <i>corresponding interstate order</i> and <i>prohibition order</i> — <i>omit</i> .	6 7 8
	(2) Schedule 1— <i>insert</i> —	9 10
	<i>corresponding interstate order</i> means an order prescribed to be a corresponding interstate order under section 90O.	11 12 13
	<i>prohibition order</i> see section 90B.	14
Division 3	Amendment of Health Practitioner Regulation National Law Act 2009	15 16
65	Act amended	17
	This division amends the <i>Health Practitioner Regulation National Law Act 2009</i> .	18 19
	<i>Editor's note</i> —	20
	For a consolidated reprint of the National Law as it applies in Queensland, see the <i>Health Practitioner Regulation National Law (Queensland)</i> .	21 22 23
66	Amendment of s 34 (Replacement of pt 8, div 5 (Preliminary assessment))	24 25
	Section 34, inserted section 148, 'section 91'— <i>omit, insert</i> —	26 27

[s 67]

	part 9, division 1	1
67	Amendment of s 50 (Replacement of pt 8, div 12, hdg and ss 193–195)	2 3
	Section 50, inserted section 193—	4
	<i>insert—</i>	5
	(1A) Subsection (1)(a) does not apply if the National Board is satisfied the health ombudsman is aware of the matter mentioned in subsection (1)(a)(i) or (ii), including, for example, because it was the subject of—	6 7 8 9 10
	(a) a notification to the National Agency under the <i>Health Ombudsman Act 2013</i> , part 3, division 2A; or	11 12 13
	(b) a referral to the National Agency under the <i>Health Ombudsman Act 2013</i> , part 9, division 1.	14 15 16
Division 4	Amendment of Hospital and Health Boards Act 2011	17 18
Subdivision 1	Preliminary	19
68	Act amended	20
	This division amends the <i>Hospital and Health Boards Act 2011</i> .	21 22

Subdivision 2	Amendments commencing on assent	1 2	
69	Insertion of new pt 6, div 5	3	
	Part 6—	4	
	<i>insert—</i>	5	
	Division 5	State aged care facilities	6
	138G Definitions for division	7	
	In this division—	8	
	<i>enrolled nurse</i> means a person registered under the Health Practitioner Regulation National Law—	9 10 11	
	(a) to practise in the nursing profession, other than as a student; and	12 13	
	(b) in the enrolled nurses division of that profession.	14 15	
	<i>nurse</i> means a registered nurse or an enrolled nurse.	16 17	
	<i>registered nurse</i> means a person registered under the Health Practitioner Regulation National Law—	18 19 20	
	(a) to practise in the nursing profession, other than as a student; and	21 22	
	(b) in the registered nurses division of that profession.	23 24	
	<i>resident</i> , at a State aged care facility, means a person who is provided residential care at the facility.	25 26 27	
	<i>residential care</i> has the meaning given by the <i>Aged Care Act 1997</i> (Cwlth), section 41-3.	28 29	

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<i>State aged care facility</i> see the <i>Public Health Act 2005</i> , section 61A.	1 2
<i>State aged care facility regulation</i> means a regulation under section 138H or 138I.	3 4
<i>State aged care facility workload management information</i> includes information about compliance with a State aged care facility regulation.	5 6 7 8
<i>support worker</i> means a person, other than a nurse, who provides residential care, under the supervision of a registered nurse, at a State aged care facility.	9 10 11 12
<i>Examples—</i>	13
• a person employed in the role known as an assistant in nursing	14 15
• a person employed in the role known as a personal care assistant	16 17
• a person employed in the role known as an undergraduate student in nursing	18 19

138H Prescription of minimum nurse and registered nurse percentages	20 21
(1) A regulation may prescribe a requirement about the minimum percentage of nurses or registered nurses providing residential care at a State aged care facility prescribed by regulation during each 24-hour period to the total number of nurses and support workers providing residential care at the facility during the period.	22 23 24 25 26 27 28
(2) The regulation—	29
(a) may apply in relation to the delivery of residential care—	30 31
(i) by stated Services; and	32
(ii) at stated facilities or parts of facilities; and	33 34

(iii) at stated times; and	1
(iv) in stated circumstances; and	2
(b) may include a requirement about the skills or qualifications of the nurses or support workers.	3 4 5
(3) For this section, a nurse or support worker is taken to be providing residential care at a State aged care facility only if the nurse or support worker is directly involved in providing residential care at the facility.	6 7 8 9 10
(4) In this section— <i>24-hour period</i> means the period starting at midnight on a day and ending immediately before midnight on the following day.	11 12 13 14
138I Prescription of minimum average daily resident care hours	15 16
(1) A regulation may prescribe a requirement about the minimum average daily resident care hours at a State aged care facility prescribed by regulation.	17 18 19
(2) The regulation may apply in relation to the delivery of residential care—	20 21
(a) by stated Services; and	22
(b) at stated facilities or parts of facilities; and	23
(c) at stated times; and	24
(d) in stated circumstances.	25
(3) The average daily resident care hours at a State aged care facility is worked out by dividing the total number of hours of residential care that nurses and support workers provide at the facility on a day by the number of residents at the facility on the day.	26 27 28 29 30 31
(4) For this section, a nurse or support worker is taken	32

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to provide residential care at a State aged care facility only if the nurse or support worker is directly involved in providing residential care at the facility. 1
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138J Temporary exemptions 5

- (1) The Minister may, by written notice given to a Service and published on the department's website, grant a temporary exemption from compliance with a State aged care facility regulation. 6
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- (2) A temporary exemption may— 11
 - (a) exempt a Service from compliance with all or part of a State aged care facility regulation; or 12
13
14
 - (b) vary the application of a State aged care facility regulation to a Service so it imposes a lesser requirement. 15
16
17
- (3) A temporary exemption may be granted on conditions. 18
19
- (4) A temporary exemption has effect for the period, of not more than 3 months, stated in the Minister's notice. 20
21
22
- (5) The Minister may, under subsection (1), extend a temporary exemption for a further period of not more than 3 months. 23
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- (6) However, the Minister may not extend a temporary exemption, or grant a further temporary exemption to a Service, if as a result the Service would be the subject of a temporary exemption for a continuous period of more than 6 months. 26
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138K Matters for Minister to consider	1
(1) This section applies if the Minister proposes to—	2
(a) recommend to the Governor in Council the making of a State aged care facility regulation applying to a Service; or	3 4 5
(b) grant or extend a temporary exemption for a Service under section 138J.	6 7
(2) The Minister must consider the Service’s capability to comply with the regulation and the likely effects of compliance.	8 9 10
(3) The matters that the Minister may consider include—	11 12
(a) the likely financial costs of compliance; and	13
(b) any matter (including the nature, size and location of the Service) that may affect the Service’s ability to recruit and retain staff; and	14 15 16 17
(c) the infrastructure that the Service has, or can acquire, to support staff; and	18 19
(d) the potential effects, on residential care delivered by the Service, of actions the Service may reasonably need to take to comply with the regulation.	20 21 22 23
138L Standards about State aged care facility workload management	24 25
(1) The chief executive may make a standard about State aged care facility workload management by Services, including how a Service—	26 27 28
(a) calculates its requirements for nurses and support workers; or	29 30
(b) develops and implements strategies to manage supply and demand for nurses and support workers; or	31 32 33

[s 69]

- (c) evaluates the performance of its nurses and support workers at its State aged care facility. 1
2
3
- (2) The standard applies only in relation to the delivery of residential care by a Service to the extent the residential care is the subject of a State aged care facility regulation. 4
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6
7
- (3) The standard may include requirements about reporting State aged care facility workload management information to the chief executive. 8
9
10
- (4) Subsection (3) does not limit the ways a Service may be required to report State aged care facility workload management information to the chief executive. 11
12
13
14
- Example—* 15
- A Service may be required to report particular information under its service agreement with the chief executive. 16
17
18
- (5) The Minister must notify the making of the standard. 19
20
- (6) The Minister’s notice is subordinate legislation. 21
- (7) The standard takes effect on the day the Minister’s notice commences or, if a later day of commencement is stated in the Minister’s notice, on the later day. 22
23
24
25
- (8) The chief executive must publish the standard on the department’s website. 26
27
- (9) The standard is binding on a Service to the extent it applies under subsection (2). 28
29
- (10) However, if it is not possible to comply with both the standard and a regulation in relation to a particular matter because of an inconsistency between them, the regulation prevails to the extent of the inconsistency. 30
31
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34

138M Publication of information about State aged care facility workload management	1 2
(1) The chief executive may require a Service to give the chief executive, by a stated reasonable time, stated State aged care facility workload management information relating to the Service.	3 4 5 6
(2) The Service must comply with the requirement.	7
(3) The chief executive may publish the information in a way that allows it to be accessed by members of the public, including, for example, on the department's website.	8 9 10 11
70 Amendment of sch 2 (Dictionary)	12
(1) Schedule 2, definition <i>nurse</i> —	13
<i>omit.</i>	14
(2) Schedule 2—	15
<i>insert—</i>	16
<i>enrolled nurse</i> , for part 6, division 5, see section 138G.	17 18
<i>nurse</i> —	19
(a) for part 6, division 4, see section 138A; or	20
(b) for part 6, division 5, see section 138G.	21
<i>registered nurse</i> , for part 6, division 5, see section 138G.	22 23
<i>resident</i> , at a State aged care facility, for part 6, division 5, see section 138G.	24 25
<i>residential care</i> , for part 6, division 5, see section 138G.	26 27
<i>State aged care facility</i> , for part 6, division 5, see the <i>Public Health Act 2005</i> , section 61A.	28 29
<i>State aged care facility regulation</i> , for part 6, division 5, see section 138G.	30 31

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	<i>State aged care facility workload management information</i> , for part 6, division 5, see section 138G.	1 2 3
	<i>support worker</i> , for part 6, division 5, see section 138G.	4 5
Subdivision 3	Amendments commencing on proclamation	6 7
71	Insertion of new s 160A	8
	After section 160—	9
	<i>insert—</i>	10
	160A Disclosure for purpose of Health Transparency Act 2019	11 12
	A designated person may disclose confidential information if the disclosure is to any of the following persons who is performing a function under, or relating to the administration of, the <i>Health Transparency Act 2019</i> —	13 14 15 16 17
	(a) the chief executive;	18
	(b) an employee of the department;	19
	(c) a contractor who is contracted to provide information and communication technology or information management services to the department.	20 21 22 23
Division 5	Amendment of Private Health Facilities Act 1999	24 25
72	Act amended	26
	This division amends the <i>Private Health Facilities Act 1999</i> .	27

73	Insertion of new s 147D	1
	After section 147C—	2
	<i>insert—</i>	3
	147D Disclosure for purpose of Health Transparency Act 2019	4 5
	Section 147 does not apply to the disclosure of information to any of the following persons who is performing a function under, or relating to the administration of, the <i>Health Transparency Act 2019</i> —	6 7 8 9 10
	(a) the chief executive;	11
	(b) an employee of the department;	12
	(c) a contractor who is contracted to provide information and communication technology or information management services to the department.	13 14 15 16
Division 6	Amendment of Public Health Act 2005	17 18
74	Act amended	19
	This division amends the <i>Public Health Act 2005</i> .	20
75	Insertion of new s 228BA	21
	After section 228B—	22
	<i>insert—</i>	23
	228BA Disclosure for purpose of Health Transparency Act 2019	24 25
	Section 220(1) does not apply if the disclosure of the confidential information by a relevant person is to any of the following persons who is performing a function under, or relating to the	26 27 28 29

[s 75]

administration of, the <i>Health Transparency Act 2019</i> —	1 2
(a) the chief executive;	3
(b) an employee of the department;	4
(c) a contractor who is contracted to provide information and communication technology or information management services to the department.	5 6 7 8

Schedule 1	Dictionary	1
	section 6	2
		3
	<i>approved provider</i> means an entity for which an approval is in force under the <i>Aged Care Act 1997</i> (Cwlth).	4 5
	<i>day hospital</i> see the <i>Private Health Facilities Act 1999</i> , section 10.	6 7
	<i>general information</i> see section 8.	8
	<i>health service</i> see the <i>Hospital and Health Boards Act 2011</i> , section 15.	9 10
	<i>Hospital and Health Service</i> means a Hospital and Health Service established under the <i>Hospital and Health Boards Act 2011</i> , section 17.	11 12 13
	<i>information</i> includes a document.	14
	<i>notice</i> means written notice.	15
	<i>personal information</i> , about an individual, means information from which the individual's identity is apparent or can reasonably be ascertained.	16 17 18
	<i>private health facility</i> means a day hospital or a private hospital.	19 20
	<i>private hospital</i> see the <i>Private Health Facilities Act 1999</i> , section 9.	21 22
	<i>private residential aged care facility</i> means a residential aged care facility other than a State aged care facility.	23 24
	<i>public sector health service facility</i> means a facility at which health services, other than residential care, are provided by a Hospital and Health Service.	25 26 27
	<i>quality and safety information</i> see section 9.	28

Schedule 1

residential aged care facility means a facility at which an approved provider provides residential care under the *Aged Care Act 1997* (Cwlth). 1
2
3

residential care has the meaning given by the *Aged Care Act 1997* (Cwlth), section 41-3. 4
5

residential care information see section 10. 6

State aged care facility means a residential aged care facility at which the State provides residential care. 7
8

Schedule 2 **Other amendments of Health Ombudsman Act 2013**

section 27

1 **Particular references to days—**

Each of the provisions in column 1 is amended by omitting the words in column 2 and inserting the words in column 3—

Column 1	Column 2	Column 3
Provision	Words omitted	Words inserted
section 47(2)	14 days	10 business days
section 48(2)	14 days	10 business days
section 53(2)	14 days	10 business days
section 54(2)	14 days	10 business days
section 59(1)(b)	7 days	5 business days
section 61(2)	7 days	5 business days
section 68B(7)(b)	7 days	5 business days
section 69(1)(b)	7 days	5 business days
section 72(2)	7 days	5 business days
section 86(3)	28 days	22 business days
section 89(3)	14 days	10 business days
section 93(3)	28 days	22 business days
section 155(1)	14 days	10 business days
section 168(2)	28 days	22 business days
section 169(2)	14 days	10 business days
section 194	21 days	15 business days

Schedule 2

Column 1	Column 2	Column 3
Provision	Words omitted	Words inserted
section 278(1)	7 days	5 business days

2	Section 43A(a), ‘section 91’—	1
	<i>omit, insert—</i>	2
	part 9, division 1	3
3	Section 68B(5)(a) and (7), ‘written’—	4
	<i>omit.</i>	5
4	Section 280(1), before ‘health practitioner’—	6
	<i>insert—</i>	7
	registered	8