

Hospital and Health Boards (Prescribed Health Practitioners) Amendment Regulation 2020

Explanatory notes for SL 2020 No. 201

made under the

Hospital and Health Boards Act 2011

General Outline

Short title

Hospital and Health Boards (Prescribed Health Practitioners) Amendment Regulation 2020

Authorising law

Section 282 of the *Hospital and Health Boards Act 2011*

Policy objectives and the reasons for them

The objective of the *Hospital and Health Boards (Prescribed Health Practitioners) Amendment Regulation 2020* (Amendment Regulation) is to provide access to The Viewer by additional types of health practitioners registered under the Health Practitioner Regulation National Law (National Law).

Sections 142 and 142A of the *Hospital and Health Boards Act 2011* (HHB Act) provide a duty of confidentiality for designated persons and prescribed health practitioners respectively. Section 143(2)(e) permits disclosure of confidential information if that information is provided to a prescribed health practitioner by giving the prescribed health practitioner access to a prescribed information system.

Under section 34B of the *Hospital and Health Boards Regulation 2012* (HHB Regulation), The Viewer is a prescribed information system for the HHB Act. The Viewer is Queensland Health's read-only web-based application that displays a consolidated view of patients' clinical and demographic information from a variety of Queensland Health clinical and administrative systems. Prescribed health practitioners can access The Viewer via the Health Provider Portal, which provides read-only, secure access.

Section 34A and schedule 2C of the HHB Regulation prescribe who is a prescribed health practitioner for the purposes of section 139 of the HHB Act and is therefore able to access The Viewer.

On 21 February 2020, the *Health Legislation Amendment Regulation 2020* amended the HHB Regulation to enable access to The Viewer for midwives, nurses and paramedics to enhance collaboration and information exchange between health care practitioners involved in a patient's care. Currently, only medical practitioners, nurses, midwives and paramedics registered under the National Law can access The Viewer.

Transfer of patient care between acute settings such as hospitals and community settings does not only involve transferring care to a general practitioner or other medical practitioner. Transfer of care also occurs between acute settings and other health practitioners, community services and aged care facilities. Transfer of care often involves follow up care or treatment with allied health professionals, depending on the patient's condition and treatment needs. Health practitioners providing community-based clinical services and primary health care to Queenslanders often need to work with Queensland Health during the transfer of patient care between acute and community settings.

There is a range of valuable information available in The Viewer that complements the information provided in a hospital discharge summary, such as radiology and pathology results, emergency department discharge summaries, medications, alerts, outpatient appointment details, and instructions for follow up treatment.

Many allied health practitioners who are employed by Queensland Health to provide clinical care already have access to The Viewer. However, registered health practitioners that are unable to access The Viewer must manually request this information from Queensland Health. This creates potential delays in providing relevant clinical information that would otherwise enable prompt clinical decision making and prevent the duplication of tests.

It is proposed to extend access to The Viewer to health practitioners registered in the following health professions under the National Law:

- Aboriginal and Torres Strait Islander Health Practice;
- Dental (including the professions of dentist, dental therapist, dental hygienist, dental prosthetist and oral health therapist);
- Medical radiation practice;
- Occupational therapy;
- Optometry;
- Pharmacy;
- Physiotherapy;
- Podiatry; and
- Psychology.

Extending access to The Viewer to allow additional registered health practitioners regardless of the type of facility or organisation they work for will ensure that these practitioners have timely access to important clinical information that could impact advice and treatment of a patient's clinical condition, such as, radiology and pathology results, emergency department discharge summaries, medications, alerts, outpatient appointment details, and instructions for follow up treatment, and may reduce unnecessary duplication of tests and procedures.

Achievement of policy objectives

To achieve the policy objectives, the Amendment Regulation amends the HHB Regulation to prescribe additional types of registered health practitioners for the definition *prescribed health practitioner* for section 139 of the HHB Act. The new professions being prescribed are:

- Aboriginal and Torres Strait Islander Health Practice;
- Dental (including the professions of dentist, dental therapist, dental hygienist, dental prosthetist and oral health therapist);
- Medical radiation practice;
- Occupational therapy;
- Optometry;
- Pharmacy;
- Physiotherapy;
- Podiatry; and
- Psychology.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the policy objectives of the HHB Act.

Inconsistency with policy objectives of other legislation

No inconsistencies with the policy objectives of other legislation have been identified.

Alternative ways of achieving policy objectives

The Amendment Regulation is the only effective means of achieving the policy objectives.

Benefits and costs of implementation

Allowing additional registered health practitioners to access The Viewer will remove the need for them to manually seek information from Queensland Health. It is expected to reduce delays in the provision of clinical information and streamline processes for both Queensland Health and for these practitioners. The costs of implementing these changes will be met within existing resources.

Consistency with fundamental legislative principles

Section 4(2)(a) of the *Legislative Standards Act 1992* provides that fundamental legislative principles include requiring that legislation has sufficient regard to rights and liberties of individuals.

The Amendment Regulation may potentially breach the principle that legislation must have sufficient regard to individuals' rights and liberties, as it expands the types of registered health practitioner who are able to access confidential information through The Viewer.

However, there are appropriate safeguards to protect confidential information, including:

- health practitioners must complete a stringent registration process to access The Viewer;
- automated checking of health practitioners' professional credentials is performed each time they log in;
- health practitioners must agree to terms and conditions that detail their legal and professional obligations when they apply to access The Viewer;
- health practitioners are not able to perform general searches for patients and can only access details of patients for which they have unique identifying information, such as a Medicare card number;
- all access and activity is recorded in audit files, and regular audits and usage reports are conducted; and
- The Viewer can be configured to display or withhold information as deemed appropriate for the practitioner's clinical role and work context. Different levels of access can be configured for different categories of health practitioners.

The HHB Act also makes it an offence for a prescribed health practitioner to disclose confidential information unless authorised; a maximum penalty of 600 penalty units applies. Health practitioners can also be disciplined under the *Health Ombudsman Act 2013* and National Law for unprofessional conduct.

Given the benefits of sharing information with practitioners who work outside Queensland Health, it is considered the privacy of individuals is sufficiently protected by the safeguards built into the arrangements for access to The Viewer.

Consultation

Consultation was undertaken with a range of stakeholders, including the Australian Physiotherapy Association (Qld Branch), Australian Podiatry Association, Australian Psychological Society (Qld), Australian Society of Medical Imaging and Radiation Therapy (Qld), Occupational Therapy Australia (Qld), Optometry Australia (Qld & NT), Pharmacy Guild of Australia (Qld), Pharmacy Society of Australia (Qld), Australian Dental Association (Queensland Branch), Australian Dental and Oral Health Therapists Association, Dental Hygienists Association of Australia, Australian Dental Prosthetists Association and Aboriginal and Torres Strait Islander Hospital and Health Services in Queensland. All stakeholders were generally supportive of the amendments.

The Amendment Regulation was assessed by Office of Best Practice Regulation in accordance with *The Queensland Government Guide to Better Regulation* as being excluded from further regulatory impact analysis as it falls into category (k), regulatory proposals designed to reduce the burden of regulation or that clearly do not add to the burden, and it is reasonably clear there are no significant adverse impacts.

Notes on provisions

Short Title

Clause 1 provides the regulation may be cited as the *Hospital and Health Boards (Prescribed Health Practitioners) Amendment Regulation 2020*.

Regulation amended

Clause 2 provides that the Regulation amends the *Hospital and Health Boards Regulation 2012*.

3 Amendment of sch 2 (Prescribed health practitioner)

Clause 3 amends schedule 2C of the *Hospital and Health Boards Regulation 2012* by prescribing additional registered health professions in column 1 and the type of registration for a health profession in column 2.

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