

Hospital and Health Boards Amendment Regulation 2021

Human Rights Certificate

Prepared in accordance with Part 3 of the *Human Rights Act 2019*

In accordance with section 41 of the *Human Rights Act 2019*, I, the Honourable Yvette D’Ath MP, Minister for Health and Ambulance Services and Leader of the House, provide this human rights certificate with respect to the *Hospital and Health Boards Amendment Regulation 2021* made under the *Hospital and Health Boards Act 2011*.

In my opinion, the *Hospital and Health Boards Amendment Regulation 2021*, as tabled in the Legislative Assembly, is compatible with the human rights protected by the Human Rights Act. I base my opinion on the reasons outlined in this statement.

Overview of the Subordinate Legislation

The purpose of the *Hospital and Health Boards Amendment Regulation 2021* (Amendment Regulation) is to amend the *Hospital and Health Boards Regulation 2012* to prescribe an agreement between Queensland Health and the Commonwealth of Australia, represented by the Department of Veterans’ Affairs (DVA), The Repatriation Commission and the Military Rehabilitation and Compensation Commission to enable sharing of confidential information.

The agreement updates and provides for the continuation of a previous agreement which provides a framework for the provision of, and payment for, treatment of entitled veterans and their dependants in Queensland public hospitals. Subject to strict requirements and safeguards, the agreement allows certain confidential information to be shared between the parties in order to give effect to the funding arrangements.

Human Rights Issues

Human rights relevant to the subordinate legislation (Part 2, Division 2 and 3 *Human Rights Act 2019*)

Privacy and Reputation

Section 25 of the Human Rights Act provides that a person has the right not to have the person’s privacy, family, home or correspondence unlawfully or arbitrarily interfered with.

Clause 3 of the Amendment Regulation prescribes an agreement between Queensland Health and the DVA for purposes of section 151(1)(a) of the Hospital and Health Boards Act. The agreement provides a framework for the provision of, and payment for, treatment of entitled veterans and their dependants in Queensland public hospitals. The agreement also allows confidential information to be shared between the parties to the arrangement for certain narrowly defined purposes.

The disclosure of confidential information about an individual may limit the right to privacy and reputation. However, any limitation of the right to privacy and reputation is demonstrably justified by the legitimate need to provide treatment to veterans and their beneficiaries. The agreement allows Queensland Health to disclose confidential information only to the extent necessary to make claims for treatment from the DVA in accordance with the agreed funding arrangements with the Commonwealth. This information includes a patient's personal details as well as clinical information such as care type, diagnoses, length of stay and DVA file numbers. The agreement requires the parties, and their officers, employees, agents and subcontractors, to comply with the Commonwealth Privacy Act and relevant state privacy legislation. Each party is obliged to report any breaches or possible breaches of privacy legislation to the other party. In addition, confidential information used to resolve complaints can only be disclosed with patient consent.

Given the need to disclose confidential information to support patient care, the narrow range of circumstances in which the information will be disclosed, and requirements for consent and other safeguards that will apply, any limitations on an individual's right to privacy and reputation are considered demonstrably justifiable within the meaning of section 13 of the *Human Rights Act 2019*.

Conclusion

I consider that the *Hospital and Health Boards Amendment Regulation 2021* is compatible with the *Human Rights Act 2019* because it raises human rights issues but does not limit human rights.

YVETTE D'ATH MP
MINISTER FOR HEALTH and AMBULANCE SERVICES
and LEADER OF THE HOUSE

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