



Health Transparency Act 2019

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Queensland

Health Transparency Act 2019

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Health Transparency Act 2019

An Act to facilitate the publication and collection of information about public facilities and private facilities that provide health services

Part 1 Preliminary

1 Short title

This Act may be cited as the *Health Transparency Act 2019*.

2 Commencement

The following provisions commence on a day to be fixed by proclamation—

- (a) sections 3 to 6;
- (b) parts 2 to 5;
- (c) part 6, other than division 4, subdivisions 1 and 2;
- (d) schedules 1 and 2.

3 Purposes of Act

The purposes of this Act are—

- (a) to improve the transparency of the quality and safety of health services provided in Queensland; and
- (b) to help people make better-informed decisions about their health care.

4 How purposes are achieved

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.

5 Act binds all persons

- (1) This Act binds all persons, including the State.
- (2) However, the State can not be prosecuted for an offence against this Act.

6 Definitions

The dictionary in schedule 1 defines particular words used in this Act.

Part 2 Information to which Act applies

7 Information to which Act applies

- (1) This Act applies to—
 - (a) general information about—
 - (i) public sector health service facilities; and
 - (ii) private health facilities; and
 - (iii) State aged care facilities; and
 - (iv) private residential aged care facilities; and
 - (b) quality and safety information about—
 - (i) public sector health service facilities; and
 - (ii) private health facilities; and
 - (c) residential care information about—

- (i) State aged care facilities; and
 - (ii) private residential aged care facilities.
- (2) This Act applies to information mentioned in subsection (1) that is—
- (a) publicly available; or
 - (b) given to the chief executive under or in relation to the administration of this Act; or
 - (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—
 - (i) under a service agreement under the *Hospital and Health Boards Act 2011*, section 35; or
 - (ii) under the *Hospital and Health Boards Act 2011*, section 138F or 138M; or
 - (iii) because of a report given under the *Private Health Facilities Act 1999*, section 144; or
 - (iv) under the *Public Health Act 2005*, section 217 or 218.
- (3) Subsection (2)(c) applies to information held by the chief executive on or after the commencement.

8 What is *general information*

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

- (a) information that identifies the facility, including, for example—
 - (i) the name, address, phone number and website of the facility; and
 - (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

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- (b) details of the health services provided at or by the facility; or

Examples—

- types of clinical specialities provided at or by the facility
- maternity models of care provided at or by the facility

- (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*

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

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

Note—

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

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

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

(2) In this section—

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—

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

activity information means—

- (a) information about patients admitted to a facility, including, for example—
 - (i) the number of patients admitted to and discharged from the facility; and
 - (ii) the reason for admission; and
 - (iii) the length of time spent in the facility; or
- (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.

patient outcome information means information about—

- (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
- (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.

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.

10 What is residential care information

- (1) **Residential care information**, about a State aged care facility or private residential aged care facility, is—
 - (a) information prescribed by regulation about—
 - (i) the personal care or nursing care provided to residents at the facility; or
 - (ii) the staffing for the personal care and nursing care provided to residents at the facility; and
 - (b) information that explains, and helps in understanding, the information mentioned in paragraph (a).
- (2) In this section—

resident, at a State aged care facility or private residential aged care facility, means a person who is provided residential care at the facility.

Part 3 Publishing information

11 Chief executive may publish information

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

12 How information may be published

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

Examples of ways of publication—

- information published on a website
- a report published on the department's website
- a printed report available from the department

Part 4 Collecting information

Division 1 Private residential aged care facilities

13 Chief executive may request information from approved provider

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—

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

14 Form of notice

A notice given under section 13 must state—

- (a) the purpose for which the information will be used if the information is given; and
- (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.

15 Failure to respond to notice

A person who is given a notice by the chief executive under section 13 must, unless the person has a reasonable excuse,

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give the chief executive, within 15 business days after the notice is given—

- (a) all of the information requested; or
- (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
- (c) if no information requested is to be given—a notice informing the chief executive that none of the information is to be given.

Maximum penalty—100 penalty units.

16 Chief executive may publish information about response to notice

- (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.
- (2) The chief executive may publish—
 - (a) that fact; and
 - (b) the name of the private residential aged care facility about which the information was requested.
- (3) Sections 11(2) and 12 apply to the publication of the information.

Division 2 Other facilities

17 Chief executive may require information about public sector health service facilities and State aged care facilities

- (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—

-
- (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;
 - (b) quality and safety information about a public sector health service facility that is, or is part of, the Service's health service area;
 - (c) residential care information about a State aged care facility that is, or is part of, the Service's health service area.
- (2) In this section—

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.

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.

18 Chief executive may require information about private health facilities

- (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—
- (a) general information;
 - (b) quality and safety information.
- (2) In this section—

licensee, of a private health facility, means the holder of the licence under the *Private Health Facilities Act 1999*, part 6 for the facility.

19 Form of notice

A notice given under section 17 or 18 must state—

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- (a) the reasonable period within which the information must be given; and
- (b) the purpose for which the information will be used; and
- (c) that it is an offence for the person to whom the notice is given to fail to comply with the notice.

20 Failure to provide information

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.

Maximum penalty—100 penalty units.

Part 5 Other provisions

21 False or misleading information

- (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.

Maximum penalty—100 penalty units.

- (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.
- (3) Subsection (1) does not apply to a person if the person, when giving the information in a document—
 - (a) tells the chief executive, to the best of the person's ability, how the document is false or misleading; and
 - (b) if the person has, or can reasonably obtain, the correct information—gives the correct information.

22 Confidentiality

- (1) This section applies to a person who—

- (a) is, or has been, any of the following persons administering, or performing functions or exercising powers under, this Act—
 - (i) the chief executive;
 - (ii) an employee of the department;
 - (iii) a contractor of the department; and
 - (b) in that capacity, obtains personal information or has access to, or custody of, personal information.
- (2) The person must not use or disclose the personal information.
Maximum penalty—50 penalty units.
- (3) However, the person may use or disclose the personal information—
- (a) to the extent necessary to administer, or perform functions or exercise powers under, this Act; or
 - (b) to, or with the consent of, the individual to whom the information relates; or
 - (c) in compliance with lawful process requiring production of documents or giving of evidence before a court or tribunal; or
 - (d) as otherwise required or permitted under another law.

23 Delegation

The chief executive may delegate the chief executive's functions or powers under this Act to an appropriately qualified employee of the department.

24 Regulation-making power

The Governor in Council may make regulations under this Act.

Schedule 1 Dictionary

section 6

approved provider means an entity for which an approval is in force under the *Aged Care Act 1997* (Cwlth).

day hospital see the *Private Health Facilities Act 1999*, section 10.

general information see section 8.

health service see the *Hospital and Health Boards Act 2011*, section 15.

Hospital and Health Service means a Hospital and Health Service established under the *Hospital and Health Boards Act 2011*, section 17.

information includes a document.

notice means written notice.

personal information, about an individual, means information from which the individual's identity is apparent or can reasonably be ascertained.

private health facility means a day hospital or a private hospital.

private hospital see the *Private Health Facilities Act 1999*, section 9.

private residential aged care facility means a residential aged care facility other than a State aged care facility.

public sector health service facility means a facility at which health services, other than residential care, are provided by a Hospital and Health Service.

quality and safety information see section 9.

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

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

residential care information see section 10.

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