

# Private Health Facilities (Standards) Amendment Notice (No. 1) 2014

Explanatory notes for SL 2014 No. 84

made under the

*Private Health Facilities Act 1999*

## General Outline

### Short title

*Private Health Facilities (Standards) Amendment Notice (No. 1) 2014.*

### Authorising law

Section 12 of the *Private Health Facilities Act 1999*.

### Policy objectives and the reasons for them

The objective of the *Private Health Facilities (Standards) Amendment Notice (No. 1) 2014* (the Amendment Notice) is to notify the making of the Physical Environment Standard (version 4), which will apply to licensed private health facilities in Queensland.

The main object of the *Private Health Facilities Act 1999* (the Act) is to provide a framework for protecting the health and wellbeing of patients receiving health services at private health facilities. This object is achieved by several means, including establishing a licensing regime for persons to operate a private health facility and for enabling standards to be made for the provision of health services at those facilities.

Section 12 of the Act provides that the Chief Health Officer may make standards for the protection of the health and wellbeing of patients receiving health services at private health facilities. A standard has no effect unless the Minister notifies the making of the standard. The *Private Health Facilities (Standards) Notice 2000* (the Notice), rather than the standard, is subordinate legislation and is subject to the *Statutory Instruments Act 1992*. Operators of licensed facilities must comply with standards made by the Chief Health Officer, and notified by the Minister.

In accordance with the Act, the Amendment Notice notifies the making of a new version of the Physical Environment Standard.

On 6 June 2013, the Minister for Health asked the Chief Health Officer to undertake a review to:

- investigate the circumstances surrounding the notification of, and response to, Legionnaires' disease in two patients and the subsequent death of one patient, at The Wesley Hospital in Queensland in late May and early June 2013; and
- make recommendations regarding the future management of *Legionella pneumophila* in Queensland.

The review included sampling, testing and treatment of water supplies in all public, private and day hospitals in Queensland.

The Chief Health Officer's report, *Review of the prevention and control of Legionella pneumophila infection in Queensland* was tabled in Parliament by the Minister for Health on 17 October 2013. The review identified numerous areas to be improved to ensure a more robust approach to preventing and controlling *Legionella* bacteria and Legionnaires' disease or legionellosis in Queensland. The review made recommendations regarding the future management of *Legionella pneumophila* in Queensland in healthcare and residential aged care facilities.

One of the recommendations, to be achieved in the short-term, was that public and private hospitals and all public residential aged care facilities be required, and private residential aged care facilities be requested, to develop water quality risk management plans which include periodic testing of their water supplies for *Legionella* and heterotrophic plate count based on risk. For private health facilities, this recommendation is being achieved by amending the relevant standard under the Act – the Physical Environment Standard (version 3), which was notified on 10 November 2006.

The Chief Health Officer made the Physical Environment Standard (version 4) on 23 April 2014. This standard now includes a requirement for all private health facilities to have a water quality risk management plan in place, to ensure microbial safety in the facility.

## **Achievement of policy objectives**

The policy objective will be achieved by the Minister notifying the making of the Physical Environment Standard (version 4), by way of this Amendment Notice.

## **Consistency with policy objectives of authorising law**

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

## **Inconsistency with policy objectives of other legislation**

The Amendment Notice is not inconsistent with the policy objectives of other related legislation that aims to protect and promote public health, such as the *Public Health Act 2005*.

## **Alternative ways of achieving policy objectives**

There are no alternative ways of achieving the policy objectives.

## **Benefits and costs of implementation**

There are no costs and benefits associated with the implementation of the Amendment Notice. However, the Amendment Notice gives effect to increased requirements under the Physical Environment Standard, which will have impacts on government and a varying impact on the private hospital industry.

For government, impacts will be absorbed in current administrative and compliance activities already undertaken by Queensland Health. Costs of these functions are offset through licensing fees under the Act.

For private health facilities with a water quality risk management plan in place, costs may be minimal. For facilities without a plan in place, there will be costs associated with the development, implementation and ongoing review of the plan. These costs will be dependent upon individual facility risk profile.

Any improvement in Legionella control will benefit the community in minimising the risk of patients and clients acquiring legionellosis as a result of their stay in Queensland private health facilities. Community benefits may be summarised as reduced mortality, reduced medical expenditures (hospital and convalescence) and reduced loss of output (time away from the workplace on sick leave or caring for a sick relative).

The benefits for the private health facilities may include minimising risk of legionella outbreaks to support patient safety.

## **Consistency with fundamental legislative principles**

The notice is consistent with fundamental legislative principles, as set out in section 4 of the *Legislative Standards Act 1992*.

## Consultation

The introduction of a requirement to develop and implement a water quality risk management plan for private health facilities in Queensland was publicly announced by the Minister for Health on 17 October 2013.

On 4 March 2014, the Chief Health Officer advised all licensed private health facilities in writing about the intention to modify the Physical Environment Standard to include a requirement for licensees to develop and implement a detailed water quality risk management plan. The Chief Health Officer also recommended that licensees who did not have a water quality risk management plan in place should commence developing the plan.

Queensland Health has continued to work with licensees in response to the Minister's announcements, including providing guidance material, to assist in the development and implementation of water quality risk management plans.

The Office of Best Practice Regulation was consulted in relation to the proposed notice and advised that a Regulatory Impact Statement is not required. Further impact analysis and assessment will be undertaken during consideration of the other medium-term recommendations made in the Chief Health Officer's report.

## Notes on provisions

### Short Title

*Clause 1* sets out the short title of the Amendment Notice.

### Notice Amended

*Clause 2* specifies that the notice amends the *Private Health Facilities (Standards) Amendment Notice 2000*.

### Amendment of schedule (Standards)

*Clause 3* amends the Schedule of Standards made by the Chief Health Officer to remove the reference to the Physical Environment Standard (version 3) and prescribe the Physical Environment Standard (version 4).