

Private Health Facilities (Standards) Amendment Notice 2019

Explanatory notes for SL 2019 No. 72

made under the

Private Health Facilities Act 1999

General Outline

Short title

Private Health Facilities (Standards) Amendment Notice 2019

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 2019* (Amendment Notice) is to notify the making of several amended Private Health Facilities Standards, which will apply to licensed private health facilities in Queensland.

Section 12(1) of the *Private Health Facilities Act 1999* provides that the Chief Health Officer may make standards under the Private Health Facilities Act for the protection of the health and wellbeing of patients receiving health services at private health facilities. Section 12(3) of the Act provides that a standard made by the Chief Health Officer has no effect unless the Minister notifies the making of the standard. Section 12(5) of the Act provides that the notice of the making of the standard is subordinate legislation.

The current Private Health Facilities Standards (the Standards) that apply to private health facilities are notified under the *Private Health Facilities (Standards) Notice 2016* (the 2016 Notice). The Chief Health Officer has made amendments to six of the Private Health Facilities Standards in the 2016 Notice.

Credentials and Clinical Privileges Standard

Under section 12(2) of the Private Health Facilities Act, the Chief Health Officer may make standards about the processes for evaluating the credentials of medical practitioners providing, or seeking to provide, health services at private health facilities, and deciding which health services may be provided by the medical practitioners at the facilities.

Credentialing is a process used by public and private hospitals to ensure that only experienced, suitably trained and qualified medical practitioners provide particular types of health care services. The Credentials and Clinical Privileges Standard (the Credentials Standard) reflects the Chief Health Officer's credentialing requirements for licensed private health facilities and requires them to have a Credentials and Clinical Privileges Committee.

The Credentials Standard requires a Credential and Clinical Privileges Committee to have regard to advice received from clinical colleges and health professional registration authorities when evaluating, monitoring or reviewing the credentials of medical practitioners. Version 4 of the Credentials Standard does not require a Credentials and Clinical Privileges Committee to have regard to advice received from the Australian Commission on Safety and Quality in Health Care (the Commission).

In March 2018, an Australian Senate Inquiry into the number of women in Australia who have had transvaginal mesh implants and related matters recommended that the Commonwealth, State and Territory Health Ministers require that guidance developed by the Commission underpin credentialing processes in all public hospitals and encourage private health facilities to adopt similar processes. Queensland Health has committed to adopting the guidelines and has recommended to licensed private health facilities that they implement the guidelines in their credentialing processes. The Commission's guidelines have been included in version 5 of the Credentials Standard, giving effect to this recommendation.

Minor updates to other Private Health Facilities Standards

The policy objective is to update the Standards to refer to the latest versions of reference documents, remove redundant references and make minor revisions to wording to aid understanding. The following Standards have been updated:

- Continuous quality improvement standard (version 3)
- Ethics standard (version 2)
- Information management standard (version 4)
- Patient care standard (version 5)
- Physical environment standard (version 5).

The outdated references and other minor amendments proposed do not impact significantly on the operation of the Standards, however, they have been refined and modernised to enhance their relevance and use.

Achievement of policy objectives

The Amendment Notice notifies the making of the amended Standards by reflecting the updated version numbers, as follows:

- Credentials and clinical privileges standard (version 5)
- Continuous quality improvement standard (version 4)
- Ethics standard (version 3)
- Information management standard (version 5)
- Patient care standard (version 6)
- Physical environment standard (version 6).

The Amendment Notice achieves the policy objective by requiring a Credentials and Clinical Privileges Committee to have regard to advice from the Commission when evaluating the credentials of a medical practitioner providing, or seeking to provide, health services at the facility. This will align private health facilities' requirements for the credentialing and training of medical practitioners with the requirements for public hospitals and ensure patients at these facilities are provided with same high level of safety as those in public hospitals.

Consistency with policy objectives of authorising law

The Amendment Notice is consistent with the policy objectives of the authorising legislation.

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 Notice is the only effective means of achieving the policy objectives.

Benefits and costs of implementation

The Amendment Notice is consistent with the 2016 Notice and accordingly imposes no additional costs on persons or organisations.

Private health facilities are already required to undertake credentialing of medical practitioners having regard to advice from appropriate clinical colleges and health professional registration authorities.

Consistency with fundamental legislative principles

The Amendment Notice notifies the making of the amended Standards. The Standards are not included in the Amendment Notice. This may be seen as a minor breach of the fundamental legislative principle in section 4(5)(e) of the *Legislative Standards Act 1992*, which requires subordinate legislation to have sufficient regard to the institution of Parliament by allowing the subdelegation of power only in appropriate cases and to appropriate persons and if authorised by an Act. Private Health Facilities Standards can only be made or amended by the Chief Health Officer under the Private Health Facilities Act.

The amended Standards will be tabled in the Legislative Assembly to enhance the visibility of the documents to members of the Legislative Assembly. The amended Standards are also available on the Queensland Health website.

In addition, the technical nature of the requirements outlined in the Standards, and their use in ensuring the safety and protection of Queenslanders receiving health care at private health facilities, justifies the need to refer to the Standards in the Notice.

The Amendment Notice is otherwise consistent with fundamental legislative principles.

Consultation

No external consultation was undertaken on the Amendment Notice as it is largely consistent with the 2016 Notice and the changes are minor and technical in nature. Queensland Health has previously recommended to licensed private health facilities to implement the Commission's guidance material in their credentialing processes.

The amendments to the 2016 Notice were assessed by Queensland Health, in accordance with *The Queensland Government Guide to Better Regulation*, as being machinery in nature under category (g) as the amendments make no substantial policy changes. Therefore, the amendments are excluded from further regulatory impact assessment and no consultation with the Queensland Productivity Commission was required.

Notes on provisions

Short Title

Clause 1 provides that the short title of the Amendment Notice is the *Private Health Facilities (Standards) Amendment Notice 2019*.

Notice amended

Clause 2 provides that the Amendment Notice amends the *Private Health Facilities (Standards) Notice 2016*.

Amendment of sch 1 (Standards)

Clause 3 amends the Schedule of Standards made by the Chief Health Officer to remove reference to the current version numbers and prescribe the new version numbers of the amended Standards.

Clause 3(1) removes reference to version 3 of the Continuous quality improvement standard and inserts a reference to version 4.

Clause 3(2) removes references to versions 4 of the Credentials and clinical privileges standard and the Information management standard, and inserts references to versions 5.

Clause 3(3) removes reference to version 2 of the Ethics standard and inserts reference to version 3.

Clause 3(4) removes references to versions 5 of the Patient care standard and the Physical environment standard and inserts references to versions 6.