

Proclamation – Health Practitioner Regulation National Law and Other Legislation Amendment Act 2019

Explanatory notes for SL 2020 No. 11

made under the

Health Practitioner Regulation National Law and Other Legislation Amendment Act 2019

General Outline

Short title

Proclamation for the *Health Practitioner Regulation National Law and Other Legislation Amendment Act 2019*.

Authorising law

Section 2 of the *Health Practitioner Regulation National Law and Other Legislation Amendment Act 2019*.

Policy objectives and the reasons for them

The objective of the proclamation is to fix 1 March 2020 for the commencement of the provisions of the *Health Practitioner Regulation National Law and Other Legislation Amendment Act 2019* (Amendment Act) that are not yet in force.

The Amendment Act was passed by the Legislative Assembly on 26 February 2019 and received assent on 7 March 2019. Most provisions of the Act commenced on assent or by proclamation on 1 July 2019 (2019 SL No. 99).

The remaining provisions that are not yet in force make changes to the mandatory reporting requirements for treating practitioners under the Health Practitioner Regulation National Law (National Law). The National Law is set out in the schedule to the *Health Practitioner Regulation National Law Act 2009* (National Law Act). The purpose of the changes to mandatory reporting is to ensure that registered health practitioners have confidence to seek treatment for their health issues, while continuing to provide appropriate reporting obligations for practitioners to protect the public from harm.

The provisions of the Amendment Act to be commenced by the proclamation include amendments to the following sections of the National Law:

- an updated definition of notifiable conduct to reflect current drafting practice (section 140); and
- revised mandatory reporting requirements for treating practitioners (new sections 141A to 141C).

New sections 141A to 141C revise the mandatory reporting requirements for treating practitioners under the National Law. A *treating practitioner* is defined as a registered health practitioner who provides a health service to another registered health practitioner. Under new section 141B, a treating practitioner is required to report a practitioner-patient who has practised their profession while impaired or intoxicated or in a way that significantly departs from professional standards only if the treating practitioner reasonably believes that the practitioner-patient is placing the public at substantial risk of harm. This is a higher threshold than currently applies. Together with guidance factors set out in new section 141B, the higher threshold will enable treating practitioners to holistically assess a practitioner-patient's health and the extent to which any risks to the public are being effectively managed through treatment and other measures.

The commencement of these reforms will give registered health practitioners greater confidence to seek treatment for their health issues so that they can in turn provide safe and effective care to their own patients. The reforms will continue to require mandatory reporting by treating practitioners when necessary to protect the public from substantial risks of harm.

The reforms do not apply to the reporting of sexual misconduct, which is dealt with separately in new section 141A of the Amendment Act. Section 141A strengthens reporting of sexual misconduct by treating practitioners by requiring them to report past, current and future risks of sexual misconduct by another registered health practitioner in connection with the practice of that person's profession. The strengthened reporting of sexual misconduct is in line with community expectations and the findings of the Royal Commission into Institutional Responses to Child Sexual Abuse.

In addition to the above-mentioned provisions, the proclamation will commence consequential amendments to the Queensland local application provisions of the National Law Act. These amendments align Queensland's approach to mandatory reporting by treating practitioners with the approach in the National Law by removing a Queensland-specific provision.

The Proclamation will also commence consequential amendments to the *Ambulance Service Act 1991* and the *Hospital and Health Boards Act 2011*.

Achievement of policy objectives

The policy objective will be achieved by fixing 1 March 2020 for the commencement of the remaining provisions of the Amendment Act that are not yet in force. The provisions to be commenced are part 2, sections 4 and 5; part 3, sections 17 to 19; and part 4.

Consistency with policy objectives of authorising law

The proclamation is consistent with the policy objectives of the Amendment 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 proclamation is the only effective means of commencing the Amendment Act.

Benefits and costs of implementation

There are no costs arising from the proclamation.

Consistency with fundamental legislative principles

The proclamation is consistent with fundamental legislative principles in section 4 of the *Legislative Standards Act 1992*.

Consultation

The Department of the Premier and Cabinet, Queensland Treasury, Australian Health Practitioner Regulation Agency and Office of the Health Ombudsman were consulted on the Proclamation and support the proposed commencement date. State and Territory governments and the Commonwealth government were also consulted and are supportive.

The proclamation was assessed by Queensland Health, in accordance with *The Queensland Government Guide to Better Regulation*, as being excluded from regulatory impact assessment on the basis that the proclamation is of a machinery nature, as it is required to bring an Act or sections of an Act into operation. Therefore, consultation with the Queensland Productivity Commission was not required.

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