

# Health Legislation Amendment Regulation 2020

## 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 Steven Miles MP, Minister for Health and Minister for Ambulance Services provide this human rights certificate with respect to the Health Legislation Amendment Regulation 2020 made under the *Health Act 1937*, *Health Ombudsman Act 2013* and *Hospital and Health Boards Act 2011*.

In my opinion, the Health Legislation Amendment Regulation, as tabled in the Legislative Assembly, is compatible with the human rights protected by the *Human Rights Act 2019*. I base my opinion on the reasons outlined in this statement.

### Overview of the Subordinate Legislation

The purpose of the *Health Legislation Amendment Regulation 2020* (Amendment Regulation) is to:

- amend the *Hospital and Health Boards Regulation 2012* (HHB Regulation) to implement the operational aspects of the aged care ratios for public residential aged care facilities (RACFs) by prescribing requirements for a minimum percentage of nurses and registered nurses, and minimum average daily resident care hours;
- amend the HHB Regulation to enable nurses, midwives and paramedics registered under the Health Practitioner Regulation National Law to access The Viewer;
- amend the *Health (Drugs and Poisons) Regulation 1996* (HDPR) to enable pharmacists to administer vaccines and adrenaline to individuals aged 10 years or older;
- amend the *Health Ombudsman Regulation 2014* to make consequential amendments as a result of the *Health Transparency Act 2019* and to recognise orders made under corresponding Victorian legislation.

### 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.

Under section 34B of the HHB Regulation, The Viewer is a prescribed information system for the Hospitals and Health Boards Act. The Viewer is Queensland Health's read-only web-based application that displays a consolidated view of patients' clinical and demographic information from a variety of Queensland Health clinical and administrative systems. Section 34A of the

HHB Regulation prescribes who is a prescribed health practitioner for the HHB Act and is therefore able to access The Viewer. Currently, only medical practitioners can access The Viewer.

Section 11 of the Amendment Regulation prescribes additional health practitioners for section 34A of the HHB Regulation.

Section 11 of the Amendment Regulation may appear to restrict the operation of the right to privacy and reputation. However, there are appropriate safeguards to safeguard confidential information:

- health practitioners must complete a stringent registration process to access The Viewer
- automated checking of health practitioners' professional credentials is performed each time they log in
- health practitioners must agree to terms and conditions that detail their legal and professional obligations as they apply to accessing information in The Viewer
- health practitioners are not able to perform general searches for patients and can only access details of patients for which they have unique identifying information, such as a Medicare card number
- all access and activity is recorded in audit files, and regular audits and usage reports are conducted
- The Viewer can be configured to display or withhold information as deemed appropriate for the practitioner's clinical role and work context. Different levels of access can be configured for different categories of health practitioners.

The Hospital and Health Boards Act also provides that it is an offence for a prescribed health practitioner to disclose confidential information unless authorised. A maximum penalty of 600 penalty units applies.

Furthermore, this amendment will provide access to The Viewer to nurses and midwives that are external to Queensland Health and paramedics. Patients can opt-out of external practitioners accessing The Viewer, so that their clinical and demographic information is not shared. There is therefore no limitation or breach of the right to privacy.

### **Right to Health Services**

Section 37 of the Human Rights Act provides that every person has a right to access health services without discrimination.

Sections 4 and 5 of the Amendment Regulation amend the HDPR to allow pharmacists and trainee pharmacists to administer certain vaccines and adrenaline to individuals aged 10 years or older. This will increase people's access to health services as patients and consumers can choose to obtain certain vaccinations at a pharmacy or at a general practitioner clinic.

**Consideration of reasonable limitations on human rights (section 13 *Human Rights Act 2019*)**

As the Amendment Regulation does not limit human rights, it is not necessary to consider section 13 of the *Human Rights Act 2019*.

**Conclusion**

I consider that the Health Legislation Amendment Regulation 2020 is compatible with the *Human Rights Act 2019* because it raises human rights issues but does not limit human rights.

**STEVEN MILES**  
MINISTER FOR HEALTH and MINISTER FOR AMBULANCE SERVICES

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