

Health and Other Legislation Amendment Regulation 2024

Consultation Paper

15 April 2024



Contents

Purpose	3
Overview of proposed changes	4
Changes to the <i>Voluntary Assisted Dying Regulation 2022</i>	5
Changes to the <i>Radiation Safety Regulation 2021</i>	5
Changes to the <i>Hospital and Health Boards Regulation 2023</i>, the <i>Public Health Regulation 2018</i>, and the <i>Private Health Facilities Regulation 2016</i>	7
Changes to the <i>State Penalties Enforcement Regulation 2014</i>	9

Purpose

The purpose of this consultation paper is to seek feedback on amendments proposed for inclusion in the *Health and Other Legislation Amendment Regulation 2024* (Amendment Regulation).

The consultation paper is for **consultation purposes only** and does not represent Queensland Government policy.

Your views are valuable and may be referred to in material provided to Government in considering this proposal. If legislative amendments are progressed, your feedback may be referred to in public documents, for example, as part of the Explanatory Notes.

Please provide any feedback on the proposed amendments by email to legislationconsultation@health.qld.gov.au by **5pm, 1 May 2024**.

If you have any questions or require further information about possible changes, please email your queries to the email address above before the closing date and an officer from Queensland Health will contact you.

Overview of proposed changes

It is proposed to develop a Health and Other Legislation Amendment Regulation which will amend the:

- *Voluntary Assisted Dying Regulation 2022* to ensure a practitioner-administration voluntary assisted dying (VAD) substance is not supplied to a person where a self-administration VAD substance has been supplied and not returned;
- *Radiation Safety Regulation 2021* to:
 - deem certain classes of student health practitioners licence holders for training purposes, removing the requirement for them to apply to Queensland Health for a licence and for Queensland Health to process the applications; and
 - enable cardiologists who have completed specialist computed tomography (CT) coronary angiography training to request CT diagnostic imaging procedures, removing the need for them to refer the patient to another health practitioner to request the procedure;
- *Hospital and Health Boards Regulation 2023*, the *Public Health Regulation 2018*, and the *Private Health Facilities Regulation 2016* to authorise the provision of confidential information to Queensland Primary Health Networks (PHNs), the Queensland Aboriginal and Islander Health Council (QAIHC) and the Institute for Urban Indigenous Health (IUIH), to ensure PHNs, QAIHC and IUIH can effectively fulfill their functions of health service planning and evaluation; and
- *State Penalties Enforcement Regulation 2014* to prescribe two new offences in the *Tobacco and Other Smoking Products Act 1998* as infringement notice offences.

Changes to the *Voluntary Assisted Dying Regulation 2022*

Background

Currently, where a person is supplied with a self-administration voluntary assisted dying (VAD) substance, and subsequently revokes that decision to instead make a practitioner-administration decision, there is no legislative requirement for the unused self-administration substance to be returned and disposed of prior to the supply of the practitioner-administration substance. This creates a risk that the unused self-administration substance could be improperly used.

Proposed Amendments

It is proposed to amend the Voluntary Assisted Dying Regulation to ensure that a VAD substance is not supplied to a person for practitioner administration where the person has already been supplied with a self-administration VAD substance that has not been returned for disposal.

This will enhance the safe management of VAD substances and reduce the risk of unused VAD substances remaining in the community by ensuring there cannot be concurrent supply of two VAD substances to the same person, and by ensuring unused substances are returned to an authorised disposer for safe disposal.

Changes to the *Radiation Safety Regulation 2021*

Prescribing certain classes of student health practitioners as use licensees

Background

Certain student health practitioners as part of their required practical placement during tertiary education, use radiation apparatus under the supervision, guidance and mentorship of a fully licensed practitioner. All health practitioners, including student health practitioners, who use radiation apparatus are required to hold a use licence issued under the *Radiation Safety Act 1999*. Under the Radiation Safety Regulation, students are exempt from paying application and licence fees for a use licence.

Queensland Health incurs costs processing and assessing licence applications and cannot recoup these costs as students are exempt from paying the associated licence and application fees.

During the practical student placement phase of their university training, student health practitioners are in the process of gaining competency under supervision, and therefore no further competency assessment is necessary in the circumstances.

Proposed amendments

To remove the need for student health practitioners to apply for a licence, and for Queensland Health to process applications, it is proposed to prescribe the following classes of students as 'use licensees', enabling them to use a radiation source to carry out a radiation practice:

- dental students, oral health therapy students, dental hygiene students and dental therapy students;
- diagnostic radiography students;
- radiation therapy students; and
- nuclear medicine technology students.

This will reduce the financial and administrative burden on Queensland Health. It will also remove the administrative burden on these classes of student health practitioners, as they will no longer need to apply for a licence.

Prescribing cardiologists as 'authorised persons'

Background

Schedule 6 of the Radiation Safety Regulation prescribes authorised persons for particular diagnostic procedures. Under this schedule, only diagnostic radiologists, radiation oncologists, and doctors in training for these specialties are authorised to request computed tomography (CT) procedures.

Specialist cardiologists, even those who have undertaken specialised training in CT coronary angiography, are not authorised to request CT procedures. Instead, they need to refer their patients to a diagnostic radiologist to have such procedures requested.

Where a cardiologist with CT coronary angiography training recommends a patient undergo a CT diagnostic imaging procedure, they must refer the patient to an authorised health professional who, in turn, will request the procedure for the patient. Achieving this arm's length referral is at the expense of the patient's convenience and adds an additional step to receive the procedure.

Proposed amendments

To streamline care and give patients more efficient access to diagnostic services, it is proposed to prescribe cardiologists who have completed specialist computed tomography coronary angiography (CTCA) training as 'authorised persons'.

Some stakeholders have previously raised concerns that an amendment of this nature would allow an authorised cardiologist who also holds a use licence (which allows a person to perform CT diagnostic imaging procedures) to both request and perform CT diagnostic imaging procedures for a particular patient. This would be contrary to the usual arm's-length

referral arrangements which aim to reduce unnecessary diagnostic imaging procedures and ensure patients are not unnecessarily exposed to radiation.

Queensland Health considers the risk of this occurring is very low. To date, no cardiologists have sought to obtain a use licence to perform CT diagnostic imaging procedures. Queensland Health considers it is very unlikely that a cardiologist (of which there are a very small number in Queensland) would seek such a licence. CT diagnostic imaging procedures are usually performed by licensed diagnostic radiographers, not cardiologists.

To address any residual risk, it is intended that if an authorised cardiologist applies for a use licence, the use licence will only be granted subject to the condition that the cardiologist can only perform a CT diagnostic imaging procedure if it was requested by another authorised person. This would prevent a cardiologist from both requesting and performing a CT diagnostic imaging procedure for a particular patient.

Changes to the *Hospital and Health Boards Regulation 2023*, the *Public Health Regulation 2018*, and the *Private Health Facilities Regulation 2016*

Background

Primary Health Networks (PHNs) are a national network of independent, not-for-profit, primary health care organisations funded by the Australian Government. Their key objective is to increase the efficiency and effectiveness of medical services for patients in their geographic region, particularly those at risk of poor health outcomes, and to improve the coordination of care.

The seven Queensland PHNs require regular, timely and ongoing access to a wide range of confidential, patient-level Queensland Health data from both within the department and across the 16 Hospital and Health Services (HHSs). Access to this data is necessary to assist PHNs with achieving their core health service planning and evaluation functions. Currently, this data is disclosed to PHNs on a case-by-case basis. This requires individual approvals, which is burdensome and impacts the timeliness of the data received.

The data can include, but is not limited to, public and private hospital admitted patient activity, non-admitted patient activity, emergency department presentations, perinatal data, maternity indicators and Health Contact Centre data, disaggregated by HHS, population groups and PHN geographic region. This information contributes to the PHN's role in developing a health needs assessment for their region, which is used for the development and implementation of an evidence-based Activity Work Plan, to address national and PHN-specific priorities relating to community needs and service availability and gaps.

The traditional health needs assessment approach has now been superseded by a joint regional needs assessment framework, under which the PHNs must work in partnership with their local HHS/s and other health partners such as the local Aboriginal and Torres Strait Islander Community Controlled Health Organisations (ATSICCHOs). This process relies on PHNs having access to confidential data from Queensland Health.

The Queensland Aboriginal and Islander Health Council (QAIHC) is dedicated to empowering a sustainable ATSICCHO sector, underpinned by cultural safety and strong leadership, and governed by principles of self-determination. QAIHC's purpose is to advocate and lobby for accessible and equitable comprehensive primary healthcare for all First Nations people in Queensland, and QAIHC is responsible for supporting and delivering activities that develop the capability of ATSICCHOs. QAIHC does this through closely working with their 31 members to identify needs and provide practical solutions. This is done through advice, support, cultural capability and education, workforce planning and development, continuous quality improvement and accreditation and chronic disease management. QAIHC's membership is open to all ATSICCHOs in Queensland.

The Institute for Urban Indigenous Health (IUIH) leads the planning, development and delivery of health and wellbeing services for the Aboriginal and Torres Strait Islander Community Controlled Health Services of South-East Queensland.

Queensland Health data when analysed together with other data drawn from QAIHC's and IUIH's member services, will enable QAIHC and IUIH to develop a more complete understanding of the health needs of Aboriginal and Torres Strait Island communities, and better inform the opportunities for health services to be provided closer to the community in partnership with their member services. QAIHC and IUIH will also participate in the joint regional needs assessments, so having access to the same data will further advance their equal participation in this process.

Currently, PHNs, QAIHC and IUIH obtain data from Queensland Health on a per-request basis. This is resource intensive and can result in delays that impact upon these entities fulfilling their roles of evaluating, managing, monitoring and planning health services.

Proposed amendments

The *Hospital and Health Boards Act 2011*, *Public Health Act 2005*, and *Private Health Facilities Act 1999* allow for the disclosure of confidential information to an entity prescribed under a regulation for the purposes of evaluating, managing, monitoring or planning health services.

To allow for ongoing disclosure without requiring individual approvals, it is proposed to amend the *Hospital and Health Boards Regulation 2023*, *Private Health Facilities Regulation 2016* and *Public Health Regulation 2018*, to prescribe the seven Queensland PHNs, QAIHC and IUIH as entities to whom confidential information may be disclosed for the purposes of evaluating, managing, monitoring or planning health services.

Deeds of Disclosure between Queensland Health and the PHNs, QAIHC, and IUIH will outline the data use and disclosure conditions. This ensures compliance with confidentiality obligations and information management and security processes.

This amendment will assist PHNs, QAIHC and IUIH to achieve their health service planning, monitoring and evaluation functions.

Further, these amendments and subsequent data sharing with QAIHC and IUIH will help deliver on Queensland Health’s commitment to the National Agreement on Closing the Gap across all four reform areas, but particularly focus area four: ‘Shared access to data and information at a regional level’. These amendments are a positive step to advancing the health equity strategy and improving the delivery of health services to First Nations people across the state.

Changes to the *State Penalties Enforcement Regulation 2014*

Background

In June 2023, significant amendments were made to the *Tobacco and Other Smoking Products Act 1998*. This included establishing a licensing scheme for the wholesale and retail sale of smoking products. Two new offences will commence on 1 September 2024:

- under new section 65(1), unlicensed sale of smoking products will be an offence with a maximum penalty of 1,000 penalty units; and
- under new section 78(2), it will be an offence to supply smoking products at a liquor licensed premises other than from a point of sale, with a maximum penalty of 140 penalty units.

Proposed amendments

To support effective enforcement of the smoking product licensing regime, it is proposed to amend the *State Penalties Enforcement Regulation* to prescribe the above new offences as infringement notice offences.

The proposed penalty units for the infringement notices are:

For unlicensed retail or wholesale sale of smoking products	Individual – 20 penalty units (currently \$3,096) Corporation – 100 penalty units (currently \$15,480)
For the supply of smoking products at a liquor licensed premises other than from a point of sale	Individual – 4 penalty units (currently \$619.20)