Draft Health Transparency Regulation 2019

Explanatory notes for SL 2019 No. ###

made under the

Health Transparency Bill 2019

General Outline

Short title

Health Transparency Regulation 2019

Authorising law

Sections 9, 10 and 24 of the Health Transparency Bill 2019.

Policy objectives and the reasons for them

The Health Transparency Bill 2019 (Bill) provides for the collection of information about public and private health facilities and public and private residential aged care facilities (RACFs). The Bill will also allow publication of that information to enable it to be accessed by members of the public. Transparent information about health and aged care services is intended to drive better performance, improve clinical outcomes and support Queenslanders to be better-informed about their care.

The Bill will apply to a range of information and data already held or obtained by Queensland Health under existing arrangements, as set out in section 7(2)(c) of the Bill. This includes:

- information about public hospitals obtained under service agreements under section 35 of the *Hospital and Health Boards Act 2011*;
- compliance information about prescribed public hospitals and residential aged care facilities (RACFs) with minimum nurse-to-patient ratios and aged care ratios under sections 138F and 138M of the Hospital and Health Boards Act;
- information about private hospitals in reports provided under section 144 of the *Private Health Facilities Act 1999*; and
- perinatal information collected under sections 217 and 218 of the *Public Health Act 2005*.

The Bill defines ‘quality and safety information’ and ‘residential care information’ and allows a regulation to prescribe types of ‘quality and safety information’ and ‘residential care information’ that may be sought under the Bill. As a significant amount of data and information is already held by Queensland Health and able to be published under the Bill, it is only intended to prescribe information by regulation that is not already held by Queensland Health through existing arrangements.

Achievement of policy objectives

The draft Health Transparency Regulation 2019 (draft Regulation) supports the Bill by prescribing specific types of ‘quality and safety information’ and ‘residential care information’ that will be able to be sought from public and private health facilities, and public and private RACFs.

Quality and safety information

Under clause 9 of the Bill, ‘quality and safety information’ includes information about a facility’s accreditation and performance against the National Safety and Quality Health Service Standards, or any of the following information prescribed by regulation:

- access to care information;
- activity information;
- patient outcome information;
- process of care information; and
- other information relating to the quality and safety of health services provided at the facility.

For public and private health facilities, this information encompasses a broad range of clinical and patient information, including the percentage of patients treated within clinically recommended timeframes, numbers of admitted patients, information about patient outcomes and information about infection management.

Patient outcome information

Clause 9(2) of the Bill defines ‘patient outcome information’ as information that shows the impact of a health service on a patient and may include a change in a person’s, or group of people’s, health that may be attributed in whole or part to the health service. The information may also be about how effective a health service was in achieving the best possible outcome for a patient. The draft Regulation prescribes the specific type of patient outcome information that private health facilities are required to report.

The draft Regulation specifies that private health facilities are required to report the number of cases of *Staphylococcus aureus* bacteraemia, commonly referred to as ‘golden staph’, at the private health facility in a particular period.

The number of cases of *Staphylococcus aureus* bacteraemia is a significant indicator of health care safety and quality and can have significant impacts on hospital patients. Private health facilities will be required to report this information quarterly.

Only private health facilities will be required to provide this information as they are not specifically required to report it under existing legislation. Public health facilities already provide this information under existing reporting obligations.

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Residential care information

Clause 10(1)(a) of the Bill defines ‘residential care information’ as information prescribed by regulation about the nursing care and personal care provided to residents of RACFs; or the staffing for the personal care and nursing care provided to residents at the facility. It also includes contextual information that explains and helps consumers understand information about nursing care and personal care and related staffing.

The draft Regulation prescribes the ‘average daily resident care hours’ at each public and private RACF for a particular period as information that must be reported as ‘residential care information’.

It is intended that this information will be requested from public and private RACFs quarterly. The Act will allow approved providers of private RACFs to opt out of reporting this information and for this opt-out to be publicly reported.

Although the Australian Government is the primary funder and regulator of the aged care system, the Queensland Government has an interest in supporting elderly Queenslanders and their families as they navigate their care options and receive residential care in a RACF. The collection and publication of ‘average daily resident care hours’ is intended to:

- build consumer knowledge of the care hours they or a family member can expect to receive in a facility; and
- enable consumers to compare the care hours being provided to residents across various facilities to enable them to make more informed decisions about their care.

Consistency with policy objectives of authorising law

The draft Regulation is consistent with the policy objectives of the 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 draft Regulation is the only effective means of achieving the policy objectives.

Benefits and costs of implementation

The draft Regulation specifies the information to be required from public and private health facilities, and public and private RACFs. This will ensure that the information gathered across all health and aged care service providers in Queensland is consistent and comparable.

The Bill and the draft Regulation will introduce a reporting regime that may have some resourcing implications for health facilities and RACFs. Queensland Health will seek to reduce this burden by initially publishing information from existing data collections. The initial collection and provision of information may have some administrative impacts while reporting systems are incorporated into business as usual. Queensland Health will develop policies and protocols to guide health facilities and RACFs through the reporting processes.

The benefits of reporting residential care information for private RACFs are consumers of aged care services in Queensland will be assisted in making informed decisions about their care. It is also intended to drive improvements and increase confidence in the aged care sector by ensuring greater transparency and availability of information.

Consistency with fundamental legislative principles

The Regulation is consistent with fundamental legislative principles in the *Legislative Standards Act 1992*.

Consultation

In August 2019, targeted stakeholders were consulted on the Act and the draft Regulation to support full understanding of the new legislative framework. Stakeholders consulted included operators of private RACFs, private health facilities, Private Hospitals Association, Leading Aged Services Australia (Queensland), Aged and Community Services Australia, Council on the Ageing, Carers Queensland, Health Consumers Queensland, Queensland Nurses and Midwives' Union (QNMU), Australian Medical Association Queensland (AMAQ), Aged Care Quality and Safety Commission, Heart Foundation and Primary Health Networks.

Some stakeholders indicated that the reporting requirements may have resourcing impacts for private health facilities. Queensland Health will reduce any potential resourcing impacts for private health facilities by initially publishing information from existing data collections.

While many stakeholders were supportive of improving transparency of health care quality and safety through public reporting, RACFs and aged care stakeholders were generally not supportive of reporting residential care information. Some stakeholders indicated that the reporting requirements may have resourcing impacts for private health facilities and private RACFs. The Bill allows private aged care stakeholders to opt out of reporting their 'average daily resident care hours'.

Other stakeholders noted that multiple factors including patient acuity and models of care influence the delivery of care in RACF and the reporting of 'average daily resident care hours' would not provide consumers with a clear understanding of a RACF's service delivery. The Bill allows private RACFs to provide contextual information to explain and support consumer understanding of a RACF's 'average daily resident care hours'.

The draft Regulation was assessed by the Queensland Productivity Commission, in accordance with *The Queensland Government Guide to Better Regulation*. The Queensland Productivity Commission advised that further analysis under the Queensland Government Guide to Better Regulation is not required.

Notes on provisions

Short Title

Clause 1 states the short title of the regulation is the *Health Transparency Regulation 2019*.

Patient outcome information – Act, s 9

Clause 2 prescribes the patient outcome information that will be requested from private health facilities for the purposes of section 9(1)(b)(iii) of the Bill.

Clause 2 prescribes the number of cases of *Staphylococcus aureus* bacteraemia in a particular period as a type of patient outcome information that may be requested from private health facilities. *Staphylococcus aureus* is a type of bacterium that can cause an infection of the bloodstream. It can be acquired after a patient receives medical care or treatment in hospital. It is commonly referred to as a 'golden staph' infection.

Private health facilities that are not specifically required to provide this information through existing legislation will be required to report this information quarterly. The clause does not refer to this information being obtained from public health facilities, as they provide this information through existing reporting requirements.

Residential care information – Act, s 10

Clause 3 prescribes the *residential care information* that will be requested from public and private residential aged care facilities for section 10(1)(a) of the Bill. The Bill defines *residential care information* as information about the personal or nursing care provided to residents at a facility including the staffing involved in providing personal and nursing care.

Clause 3(1) prescribes *average daily resident care hours* for a particular period as residential care information that may be requested from public and private residential aged care facilities.

Residential care is provided by a mix of registered nurses, enrolled nurses and support workers known by various titles such as assistants in nursing or personal care assistants. Daily resident care hours refer to the hours of care that registered nurses, enrolled nurses or support workers provide to each resident of a residential aged care facility daily.

Both public and private residential aged care facilities will be requested to provide this information quarterly. Public residential aged care facilities must provide the prescribed information. However, division 1, part 4 of the Bill allows private residential aged care facilities to opt out of reporting this information and for the opt out to be publicly reported.

Clause 3(2) explains how a public or private residential aged care facility must calculate the average daily resident care hours for a particular period. Residential aged care facilities will need to calculate the hours as follows:

- Step 1 – divide the total hours of care provided to all residents in a day by the number of residents in the facility on the day. This will provide the average resident care hours for that day. This step will need to be repeated for each day in the reporting period;
- Step 2 – add the average resident care hours for each day in the reporting period; and

- Step 3 – divide the total from step 2 by the number of days in the reporting period to identify the average daily resident care hours for the relevant period.

Clause 3(3) provides that a registered nurse, enrolled nurse or support worker can only be included in the calculation of daily resident care hours if they are directly involved in providing residential care to residents at a facility.

Clause 3(4) provides definitions for key terms used in the clause including *enrolled nurse*, *nurse*, *registered nurse*, and *support worker*. The term *nurse* is used to refer to both registered nurses and enrolled nurses. The term *support worker* is defined to mean a person who is not a nurse and provides residential care under the supervision of a registered nurse. This may include an assistant in nursing, personal care assistant or an undergraduate student in nursing. *Support worker* does not include other staff such as allied health professionals and cleaners.

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