



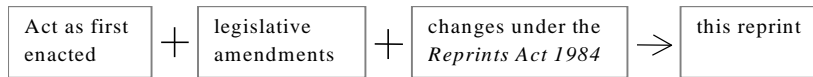
Western Australia

# **Health Services (Quality Improvement) Act 1994**

**Reprint 2: The Act as at 4 November 2011**

## Guide for using this reprint

### *What the reprint includes*



### *Endnotes, Compilation table, and Table of provisions that have not come into operation*

1. Details about the original Act and legislation that has amended its text are shown in the Compilation table in endnote 1, at the back of the reprint. The table also shows any previous reprint.
2. Validation, transitional, savings, modifying or other provisions identified in the Compilation table may be important. The table may refer to another endnote setting out the text of these provisions in full.
3. A table of provisions that have not come into operation, to be found in endnote 1a if it is needed, lists any provisions of the Act being reprinted that have not come into operation and any amendments that have not come into operation. The full text is set out in another endnote that is referred to in the table.

### *Notes amongst text (italicised and within square brackets)*

1. If the reprint includes a section that was inserted, or has been amended, since the Act being reprinted was passed, editorial notes at the foot of the section give some history of how the section came to be as it is. If the section replaced an earlier section, no history of the earlier section is given (the full history of the Act is in the Compilation table).

Notes of this kind may also be at the foot of Schedules or headings.

2. The other kind of editorial note shows something has been —
  - removed (because it was repealed or deleted from the law); or
  - omitted under the *Reprints Act 1984* s. 7(4) (because, although still technically part of the text, it no longer has any effect).

The text of anything removed or omitted can be found in an earlier reprint (if there is one) or one of the written laws identified in the Compilation table.

### *Reprint numbering and date*

1. The reprint number (in the footer of each page of the document) shows how many times the Act has been reprinted. For example, numbering a reprint as “Reprint 3” would mean that the reprint was the 3<sup>rd</sup> reprint since the Act was passed. Reprint numbering was implemented as from 1 January 2003.
2. The information in the reprint is current on the date shown as the date as at which the Act is reprinted. That date is not the date when the reprint was published by the State Law Publisher and it is probably not the date when the most recent amendment had effect.

Western Australia

## Health Services (Quality Improvement) Act 1994

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Western Australia

**Reprinted under the  
*Reprints Act 1984* as  
at 4 November 2011**

## **Health Services (Quality Improvement) Act 1994**

**An Act to provide for the approval and protection of quality improvement committees reviewing, assessing and monitoring the quality of health services, and for related purposes.**

## **Part 1 — Preliminary**

### **1. Short title**

This Act may be cited as the *Health Services (Quality Improvement) Act 1994*<sup>1</sup>.

### **2. Commencement**

This Act comes into operation on such day as is fixed by proclamation<sup>1</sup>.

### **3. Object of Act**

The object of this Act is to encourage and promote the establishment of committees to review, assess and monitor health services with a view to improving the standard of health care in Western Australia.

### **4. Crown bound**

This Act binds the Crown.

### **5. Effect on other enactments**

(1) This Act has effect despite the *Freedom of Information Act 1992*.

(2) If there is an inconsistency between a provision of this Act and a provision of any other written law, the provision of this Act prevails to the extent of the inconsistency.

### **6. Terms used**

In this Act, unless the contrary intention appears —

**Committee** means a committee that is declared, or is by section 14 taken to have been declared, to be an approved quality improvement committee under section 7(1);

***governing body*** means the person or body (by whatever name called) having the general direction and control of, and overall responsibility for, the operations of —

- (a) a health service; or
- (b) an association, society, college, faculty or other body of professionals who provide a health service;

***health service*** means —

- (a) any medical, hospital, ambulance, paramedical, dental, pharmaceutical, mental health, nursing home, palliative care, community health or environmental health service; or
- (b) any service relating to or associated with the provision of a service referred to in paragraph (a); or
- (c) any other service relating to or associated with the maintenance or improvement of the health, or the restoration to health, of persons or the prevention of disease in or injury to persons.

## **Part 2 — Quality improvement committees**

### **7. Approved quality improvement committees, declaration of**

- (1) The Minister may, by order published in the *Gazette*, declare that, for such period not exceeding 3 years as is specified in that order, a specified committee established by a governing body is an approved quality improvement committee for the purposes of this Act and by like order may amend or revoke the declaration.
- (2) The Minister is not to make a declaration under subsection (1) unless the Minister is satisfied that —
  - (a) the committee is established in accordance with the rules or official procedures of the relevant governing body; and
  - (b) each member of the committee has training and experience appropriate to the services to be assessed and evaluated; and
  - (c) the functions of the committee include —
    - (i) the assessment and evaluation of the quality of health services, including the review of clinical practices; and
    - (ii) the reporting and making of recommendations to its governing body concerning health services; and
    - (iii) the monitoring of the implementation of those recommendations;and
  - (d) the performance of those functions would be facilitated by the provision of immunities and protections afforded by this Act; and
  - (e) it is in the public interest to restrict disclosure of information compiled by that committee in the course of the performance of those functions.



**8. Restrictions on Committees**

- (1) A Committee is to have regard to the rules of natural justice in so far as they are relevant to the performance of the functions of that Committee.
- (2) A report furnished or information made available by a Committee, must not disclose, either expressly or by implication, the identity of an individual who is a provider or recipient of a health service unless the individual has consented in writing to that disclosure.

**9. Disclosure of information acquired by Committee**

- (1) A person who acquires any information solely as a result of the performance of the Committee's functions must not make a record of, or divulge or communicate that information to any person, except —
  - (a) for the purposes of —
    - (i) the performance of the functions of the Committee; or
    - (ii) furnishing reports to the relevant governing body referred to in section 7(1);
  - or
  - (b) in accordance with any standards, in addition to the restrictions imposed by this Act, that may be established by the Minister for the making available to the public or a section of the public of information that does not, either expressly or by implication, disclose the identity of an individual or individuals; or
  - (c) with the written consent of the person to whom the information relates.

Penalty: \$5 000.

- (1a) Subsection (1) applies to a person who acquires information, whether the person did so directly or indirectly.

**s. 10**

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- (2) The Minister may from time to time determine, and publish in the manner prescribed by the regulations, standards for the purposes of subsection (1)(b).

*[Section 9 amended by No. 61 of 2004 s. 8.]*

**10. Information acquired by Committee not to be given in evidence**

- (1) A person who acquires information solely as a result of a Committee performing its functions is neither competent nor compellable in civil proceedings to divulge or communicate that information to any court, tribunal, board or person.

- (1a) A document that was created by or at the request of a Committee, or solely for the performance of a Committee's functions, is not subject to discovery and is not to be used in evidence in civil proceedings before any court, tribunal, board or person unless the document has been made available to the public or given to the Minister or to the governing body of the Committee.

- (2) Subsections (1) and (1a) do not apply to —
- (a) a report which has been furnished, or information that has been made available, to a Committee which does not disclose, either expressly or by implication, the identity of an individual; or
  - (b) a requirement made in proceedings in respect of any act or omission by a Committee or by a member of a Committee as a member.

- (3) This section does not limit section 9.

*[Section 10 amended by No. 61 of 2004 s. 9.]*

**11. Findings of Committee not evidence of certain matters**

A finding or recommendation by a Committee as to the need for changes or improvements in relation to a procedure or practice

is not admissible as evidence in any proceedings that the procedure or practice is, or was, careless or inadequate.

**12. Protection from personal liability for Committees etc.**

- (1) Anything done by a Committee, a member of a Committee or any other person, in good faith for the purposes of the performance of the Committee's functions, does not subject the member or person personally to any action, liability, claim or demand.
- (2) Without limiting subsection (1), for the purposes of section 354<sup>2</sup> of *The Criminal Code* —
  - (a) any statement made orally or in writing by a member of a Committee in good faith and in the performance of the functions of a member; and
  - (b) any report or other information published in good faith by the Committee,

is to be taken to be published for the information of the public and for the discharge of public functions.

- (3) A person referred to in subsection (1) is, and is entitled to be, indemnified by the governing body that established the Committee in respect of any costs incurred in defending proceedings in respect of any action, liability, claim or demand against which the person is protected by this section.

*[Section 12 amended by No. 61 of 2004 s. 10.]*

**13. Sections 9, 10, 11 and 12 continue to apply if Committee ceases to be approved quality improvement committee**

If for any reason a committee ceases to be an approved quality improvement committee under section 7(1) —

- (a) section 9 continues to apply to the making of a record of, or divulging or communicating of, information that was acquired when the committee was an approved quality improvement committee; and

**s. 14**

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- (b) section 10 continues to apply to the competence or compellability of a person in relation to documents created when, or any matter or thing coming to that person's notice when, the committee was an approved quality improvement committee; and
- (c) section 11 continues to apply to the admissibility of evidence that relates to a finding or recommendation made by the committee when it was an approved quality improvement committee; and
- (d) section 12 continues to apply to any action, liability, claim or demand that arose when the committee was an approved quality improvement committee,

as if the committee were still an approved quality improvement committee.

**14. Mortality Committees, application of Act to**

- (1) This Act, other than sections 7, 13 and 15(a) and (b), applies to and in relation to a Mortality Committee as if —
  - (a) that committee had been declared to be a Committee under section 7; and
  - (b) the Minister were the relevant governing body for that committee; and
  - (c) a report made under Part XIII A, XIII B or XIII C of the *Health Act 1911* were a report furnished to the relevant governing body.
- (2) Regulations made under section 15, only apply to Mortality Committees where those regulations specify that they are to have that application.
- (3) In this section *Mortality Committee* means —
  - (a) the Maternal Mortality Committee constituted under Part XIII A of the *Health Act 1911*; and
  - (b) the Perinatal and Infant Mortality Committee constituted under Part XIII B of that Act; and

- (c) the Anaesthetic Mortality Committee constituted under Part XIIC of that Act.
- (4) The provisions of this section are to be construed so as not to limit in any way the effect and operation of the provisions of Parts XIIA, XIIB and XIIC of the *Health Act 1911*.

## **Part 3 — General**

### **15. Regulations**

The Governor may make regulations prescribing all matters required or permitted by this Act to be prescribed or necessary or convenient to be prescribed for carrying out this Act and, in particular —

- (a) providing for the procedure of Committees and the manner in which they are to perform their functions; and
- (b) permitting or requiring Committees to make specified information available to the public; and
- (c) permitting or requiring Committees to furnish reports concerning their activities to the Minister and governing bodies.



**Notes**

<sup>1</sup> This reprint is a compilation as at 4 November 2011 of the *Health Services (Quality Improvement) Act 1994* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

**Compilation table**

<b>Short title</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>
<i>Health Services (Quality Improvement) Act 1994</i>	80 of 1994	20 Dec 1994	s. 1 and 2: 20 Dec 1994; Act other than s. 1 and 2: 6 Sep 1995 (see s. 2 and <i>Gazette</i> 5 Sep 1995 p. 4159)
<b>Reprint 1: The <i>Health Services (Quality Improvement) Act 1994</i> as at 12 Dec 2003</b>			
<i>Health Legislation Amendment Act 2004</i> Pt. 3	61 of 2004	24 Nov 2004	24 Nov 2004 (see s. 2)
<b>Reprint 2: The <i>Health Services (Quality Improvement) Act 1994</i> as at 4 Nov 2011</b> (includes amendments listed above)			

<sup>2</sup> *The Criminal Code* s. 354 was deleted by the *Defamation Act 2005* s. 47.

**Defined Terms**

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**Defined Terms**

*[This is a list of terms defined and the provisions where they are defined.*

*The list is not part of the law.]*

<b>Defined Term</b>	<b>Provision(s)</b>
Committee.....	6
governing body .....	6
health service .....	6
Mortality Committee.....	14(3)