

[Act 1996 No 1]



New South Wales

# Public Health Amendment Bill 1995

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

### Overview of Bill

The object of this Bill is to amend the *Public Health Act 1991* so as:

- (a) to establish a New South Wales Pap Test Register to record information concerning tests for cervical cancer and its precursors, and
  - (b) to enable a woman who has a cervical cancer test to have her name and address withheld from the Register, if she so chooses, and
  - (c) to limit the persons to whom and the circumstances in which the name and address of a woman who has had a cervical cancer test may be disclosed in conjunction with the results of the test.
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## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the proposed Act to commence on a day or days to be appointed by proclamation.

**Clause 3** is a formal provision giving effect to the Schedule of amendments to the *Public Health Act 1991*.

**Clause 4** repeals an uncommenced Schedule of the *Health Legislation (Miscellaneous Amendments) Act 1994* that is superseded by the proposed Act.

**Schedule 1** inserts a new Part, proposed Part 3B (proposed sections 42E–42P).

**Proposed section 42E** inserts definitions for the purpose of the proposed Part. As well as defining *cervical cancer test* in terms of the familiar “Pap test” and related biopsies, it allows the regulations to prescribe other tests (should any be developed) for the purpose of the definition.

**Proposed section 42F** requires the Director-General to cause to be compiled and maintained a Register relating to cervical cancer tests, to be known as the New South Wales Pap Test Register. The Director-General may enter into any agreement or arrangement for another person to maintain the Register.

**Proposed section 42G** provides that the object of establishing the Register is to reduce the incidence of, and mortality from, preventable cervical cancer by using the Register for the purposes specified in proposed section 42I.

**Proposed section 42H** specifies the information that the Register is to contain in relation to a cervical cancer test. That information includes the date and result of the test, particulars of the person or laboratory that carried it out, the date of birth of the woman tested and, unless the woman elects under proposed section 42M to withhold that information, her name and residential or postal address (her *identifying particulars*).

**Proposed section 42I** sets out the purposes for which the Register is to be used. These include reminding women who fail to have a further cervical cancer test (or other appropriate investigation or treatment) after a reasonable time that a further test (or investigation or treatment) is recommended, monitoring rates and patterns of tests and providing a database for use in research into the prevention and treatment of cervical cancer. It also provides a protection from liability arising from any notification or advice to a woman (or any failure to notify or advise a woman) in relation to any matter included in or otherwise concerning the Register for persons acting in good faith for the purposes of the proposed Division.

**Proposed section 42J** limits the categories of persons to whom, and circumstances in which, the identifying particulars of a woman may be disclosed in conjunction with the results of her cervical cancer test.

**Proposed section 42K** requires a health practitioner who, and the person in charge of a laboratory that, carries out a cervical cancer test to furnish the person maintaining the Register with a report of the test. The report is to contain the information specified in proposed section 42H (except for the identifying particulars of the woman who was tested, if she has elected to withhold those particulars from the Register).

**Proposed section 42L** provides that Division 3 (proposed sections 42L–42P) of the proposed Part, which provides a right to anonymity in the Register, has effect despite proposed section 42H.

**Proposed section 42M** enables a woman who has a cervical cancer test to elect not to have her identifying particulars included in the Register.

**Proposed section 42N** enables a woman whose identifying particulars are included in the Register to have them removed.

**Proposed section 42O** makes it an offence for a health practitioner who, or a person in charge of a laboratory that, carries out a cervical cancer test to provide any person with the identifying particulars, for the purpose of their inclusion in the Register, of any woman who has elected to withhold those particulars from the Register. Any person who has reason to believe that a woman has made such an election is not to include the woman's identifying particulars in the Register.

**Proposed section 42P** requires a health practitioner, before carrying out, or taking a specimen for the purpose of, a cervical cancer test, to provide the woman who is to be tested with detailed information about the Register (unless the health practitioner's records indicate that the woman has previously been provided with that information). The information is to include details of the woman's right to withhold her identifying particulars from the Register.