

**NORTHERN TERRITORY OF AUSTRALIA**

**HEALTH AND COMMUNITY SERVICES COMPLAINTS REGULATIONS**

As in force at 1 July 2010

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 1 July 2010

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## HEALTH AND COMMUNITY SERVICES COMPLAINTS REGULATIONS

### Regulations under the *Health and Community Services Complaints Act*

#### 1 Citation

These Regulations may be cited as the *Health and Community Services Complaints Regulations*.

#### 2 Definitions

In these Regulations, unless the contrary intention appears:

**confidential information** has the meaning it has in section 97(5) of the Act.

**health status report** means a report prepared by a provider on the physical, mental or emotional health of a person or on the disability of the person for a purpose other than the benefit of the health of the person.

**Northern Territory Health Services** means the Territory through the Agency allotted responsibility for the administration of the *Public Health Act*.

#### 4 Prescribed health services

- (1) A service specified in Part 1 of Schedule 2 is a health service for the purposes of the definition of **health service** in section 4(1) of the Act.
- (2) A service specified in Part 2 of Schedule 2 is not a health service for the purposes of the definition of **health service** in section 4(1) of the Act.

#### 5 Prescribed services for aged people

A service specified in Part 3 of Schedule 2 is a service for aged people for the purposes of the definition of **services for aged persons** in section 4(1) of the Act.

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**6 Prescribed services for people with disabilities**

A service specified in Part 4 of Schedule 2 is a service for people with a disability for the purposes of the definition of **services for persons with a disability** in section 4(1) of the Act.

**7 Principles of health and community rights and responsibilities**

A reference in the Act to the principles set out or specified in the Regulations is a reference to the principles specified in Schedule 3.

**8 Statement by professional mentor or expert**

The form in Schedule 4 is the prescribed form for the purposes of sections 45(5), 51(7) and 52(3) of the Act.

**9 Search warrant**

- (1) An information for the purposes of section 58 of the Act may be in the form specified in Schedule 5.
- (2) The form in Schedule 6 is the prescribed form for the purposes of section 58 the Act.

**10 Prescribed providers**

The providers specified in Schedule 7 are prescribed providers for the purposes of sections 99 and 100 of the Act.

**11 Internal complaint procedures**

The procedures set out in Schedule 8 are the internal complaints procedures for the purposes of section 100 of the Act.

## **Schedule 2 Health services**

regulations 4, 5 and 6

### **Part 1 Services that are prescribed health services**

1. A service provided at a hospital, health institution or nursing home.
2. All medical services, nursing services, dental services, pharmaceutical services, paramedical services, mental health services, allied health services, community health services, environmental health services, specialised health services and alcohol and other drug services and a service related to those services.
3. An examination for the purposes of preparing a health status report, including referring to any notes of the examination on which the report is based.
4. A laboratory service provided in support of a health service.
5. A laundry service, dry cleaning service, catering service or other support service provided to a hospital, health institution, nursing home, if the service affects the care or treatment of a patient or resident.
6. A social work service, welfare service, recreational service or leisure service, if provided as part of a health service.
7. An ambulance service.
8. Any other service provided by a registered provider for, or purportedly for, the care or treatment of a person.
9. A service provided by:
  - (a) an audiologist, audiometrist or optical dispenser;
  - (b) a child guidance therapist, dietician, speech pathologist, prosthetist, psychotherapist or therapeutic counsellor.
10. A service of a professional or technical nature provided for, or purportedly for, the care or treatment of a person or in support of a health service.
11. A service provided by a practitioner of therapeutic massage, naturopathy or acupuncture or in another natural or alternative health care or diagnostic field.

12. The provision of information relating to the promotion or provision of health care or health education.

**Part 2 Services that are not prescribed health services**

The process of writing, or the content of, a health status report.

**Part 3 Services that are prescribed services for aged people**

1. A service that provides one or more of the following kinds of support specifically for aged people or their carers:

Home help, personal care, home maintenance or modification, food services, respite care, transport, assessment or referral of support needs, education, training and skill development, information services, co-ordination, case management and brokerage, recreation, advocacy, provision of equipment.

2. Services provided in association with the use of premises for the care, treatment and accommodation of aged people.
3. Services under the Home and Community Care Program established under clause 5 of the agreement between the Commonwealth and the Territory set out in the Schedule to the *Home and Community Care Act 1985* of the Commonwealth or an aged care program conducted by or on behalf of the Territory.

**Part 4 Services that are prescribed services for people with disabilities**

1. A service that provides one or more of the following kinds of support specifically for people with disabilities or their carers:

Home help, personal care, home maintenance or modification, food services, respite care, transport, assessment or referral of support needs, education, training and skill development, information services, co-ordination, case management and brokerage, recreation, advocacy, community access, accommodation support, rehabilitation, employment services, provision of equipment.

2. Services provided in association with the use of premises for the care, treatment and accommodation of people with disabilities.

3. Services purchased through the Home and Community Care Program established under clause 5 of the agreement between the Commonwealth and the Territory set out in the Schedule to the *Home and Community Care Act 1985* of the Commonwealth or a disability program conducted by or on behalf of the Territory.

### **Schedule 3 Principles of health and community rights and responsibilities**

regulation 7

1. A person is entitled to receive appropriate health services and community services of a high standard as promptly as circumstances reasonably permit.
2. A person is entitled to be informed and educated about health and community matters that may be relevant to him or her and about available health services and community services.
3. A person who is capable of doing so is entitled to participate effectively in the making of a decision dealing with his or her health, including those about participation in research.
4. A person who is capable of doing so is entitled to participate actively in his or her health care.
5. A person is entitled to be provided with health services and community services in a considerate way that take into account his or her cultural and ethnic background, needs and wishes.
6. The confidentiality of information about a person's health is to be preserved.
7. A person is entitled to reasonable access to information about his or her health.
8. A person is entitled to reasonable access to procedures to redress grievances about the way health services and community services are provided.
9. A provider or person who provides care for a user is to be considered and recognised for his or her contribution to health care.
10. A person who is capable of doing so is entitled to make his or her own responsible contribution to the therapeutic partnership between himself or herself and a provider.



## Schedule 4

regulation 8

### NORTHERN TERRITORY OF AUSTRALIA

#### *Health and Community Services Complaints Act*

#### STATEMENT OF PROFESSIONAL MENTOR OR EXPERT

I, \_\_\_\_\_, undertake not to record, disclose or use confidential information gained *through my acting as a professional mentor/through my giving of a report\** except for the purposes of the *Health and Community Services Complaints Act* as requested and authorised by the Commissioner.

\*I certify that I have not received confidential information that reveals the identity of a complainant or provider referred to in a complaint under the *Health and Community Services Complaints Act*.

\*I certify that from confidential information that I have received that I do not have knowledge of the identity of a complainant or provider referred to in a complaint under the *Health and Community Services Complaints Act*.

\*I certify that from confidential information that I have received that I have knowledge of the identity of a complainant or provider referred to in a complaint under the *Health and Community Services Complaints Act*. Particulars of the knowledge are as follows:

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Dated \_\_\_\_\_ 19 .

Signature

\* Delete if not applicable

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**Schedule 5**

regulation 9

**NORTHERN TERRITORY OF AUSTRALIA**

***Health and Community Services Complaints Act***

**INFORMATION IN SUPPORT OF ISSUE OF SEARCH WARRANT**

I, \_\_\_\_\_, in pursuance of section 58(1) of the *Health and Community Services Complaints Act*, make oath and say that:

\*I believe that entry and inspection of the premises at \_\_\_\_\_ is necessary to enable an investigation to be carried out under Part 7 of the *Health and Community Services Complaints Act*.

\*I suspect that there may be on the premises at \_\_\_\_\_ a document or other thing relevant to a matter being investigated under Part 7 of the *Health and Community Services Complaints Act*.

\*I suspect that there is on premises at \_\_\_\_\_ one or more persons referred to in section 58(6) of the *Health and Community Services Complaints Act* who cannot, practically or otherwise, exercise an absolute right to leave the premises and whose health and safety may be at risk.

My *belief/suspicion*\* is based on the following:

I apply for a search warrant to enter into and remain on the premises and to carry out the acts permitted by the *Health and Community Services Complaints Act*.

SWORN before me

at

on

19 .

**CERTIFICATE OF JUSTICE**

In pursuance of section 58 of the *Health and Community Services Complaints Act*, I certify that the matters stated above are the matters I relied on to justify issuing the warrant.

Justice of the Peace

\*Delete if not applicable

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**Schedule 6**

regulation 9

**NORTHERN TERRITORY OF AUSTRALIA**  
***Health and Community Services Complaints Act***

**SEARCH WARRANT**

To :

WHEREAS, I, \_\_\_\_\_, a Justice of the Peace, being  
satisfied by information on oath placed before me by \_\_\_\_\_ on  
in relation to premises at \_\_\_\_\_ that there is:

\*reason to believe that entry and inspection of the premises is  
necessary to enable an investigation to be carried out under Part 7 of the  
*Health and Community Services Complaints Act*,

\*reason to suspect that there may be on the premises a document or  
other thing relevant to a matter being investigated under Part 7 of the *Health  
and Community Services Complaints Act*,

\*reason to suspect that there is on the premises one or more persons  
referred to in section 58(6) of the *Health and Community Services Complaints  
Act* who cannot, practically or otherwise, exercise an absolute right to leave  
the premises and whose health and safety may be at risk,

AUTHORISE YOU and any other person assisting you, with force if  
necessary, to enter and remain on the premises and do any or all of the  
actions permitted under section 58(3) of the *Health and Community Services  
Complaints Act*.

This warrant remains in force for 30 days after the day on which it is issued.

Dated \_\_\_\_\_ 19 .

Justice of the Peace

\*Delete if not applicable

## **Schedule 7 Prescribed providers**

regulation 10

Anyinginyi Congress Aboriginal Corporation  
Central Australian Aboriginal Congress Incorporated  
Danila Dilba Biluru Butji Binnilutlum Medical Service Aboriginal Corporation  
Darwin Private Hospital Pty Ltd  
Miwatj Health Aboriginal Corporation  
Northern Territory Health Services  
Wurli Wurlinjang Aboriginal Health Service

## **Schedule 8 Internal complaints procedures**

regulation 11

1. A prescribed provider must inquire into and, if possible, resolve a complaint made by a user or the representative of a user relating to a health service or community service provided by the provider to the user.
2. A prescribed provider who provides a health service or community service to a user must ensure that adequate information is made available to the user or the representative of the user about:
  - (a) the internal complaints procedures of the prescribed provider;
  - (b) all other complaints procedures that apply to the prescribed provider, including the procedure under Part 5 of the Act; and
  - (c) the right to, and availability of, support and advocacy services that are available to the user.
3. Information provided under clause 2 must be in a form that is accessible and understood by the user or representative.
4. A prescribed provider must ensure that a user or the representative of a user who makes a complaint to the prescribed provider in accordance with the internal complaints procedures of the provider:
  - (a) receives a written acknowledgement as soon as practicable after the complaint is made; and
  - (b) is kept informed of the progress of any inquiries, investigation or other action on the complaint at regular intervals.
5. A prescribed provider must ensure that a full and accurate record of the nature of a complaint and any inquiry, investigation or other action taken in relation to it is kept.
6. A prescribed provider must maintain a register containing a record of all complaints received.
7. If a prescribed provider considers that after investigating a complaint:
  - (a) a person may have committed an offence – the prescribed provider must notify a member of the Police Force;

- (b) a person may have committed a breach of discipline – the prescribed provider must commence disciplinary proceedings against the person that are appropriate; or
  - (c) a registered provider may be guilty of unprofessional conduct – the prescribed provider must notify the relevant Board.
8. At the conclusion of an investigation of a complaint, the prescribed provider must inform the user or his or her representative of the user's right to make a complaint under Part 5 of the Act.

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**ENDNOTES**
**1****KEY**

Key to abbreviations

amd = amended  
 app = appendix  
 bl = by-law  
 ch = Chapter  
 cl = clause  
 div = Division  
 exp = expires/expired  
 f = forms  
 Gaz = Gazette  
 hdg = heading  
 ins = inserted  
 lt = long title  
 nc = not commenced

od = order  
 om = omitted  
 pt = Part  
 r = regulation/rule  
 rem = remainder  
 renum = renumbered  
 rep = repealed  
 s = section  
 sch = Schedule  
 sdiv = Subdivision  
 SL = Subordinate Legislation  
 sub = substituted

**2****LIST OF LEGISLATION*****Health and Community Services Complaints Regulations (SL No. 18, 1998)***

Notified	1 July 1998
Commenced	1 July 1998

***Statute Law Revision Act 1999 (Act No. 27, 1999)***

Assent date	18 June 1999
Commenced	18 June 1999

***Statute Law Revision Act 2005 (Act No. 44, 2005)***

Assent date	14 December 2005
Commenced	14 December 2005

***Health Practitioner (National Uniform Legislation) Implementation Act 2010 (Act No. 18, 2010)***

Assent date	20 May 2010
Commenced	1 July 2010 (s 2)

**3****LIST OF AMENDMENTS**

r 3	rep Act No. 18, 2010, s 45
sch 1	amd Act No. 27, 1999, s 16; Act No. 44, 2005, s 22 rep Act No. 18, 2010, s 45
sch 2	amd Act No. 44, 2005, s 22; Act No. 18, 2010, s 46