

NORTHERN TERRITORY OF AUSTRALIA

HEALTH AND COMMUNITY SERVICES COMPLAINTS REGULATIONS

As in force at 1 March 2011

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NORTHERN TERRITORY OF AUSTRALIA

This reprint shows the Regulations as in force at 1 March 2011. Any amendments that commence after that date are not included.

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.

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:

.

Dated _____ 19 .

Signature

*Delete if not applicable

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*.

Made at *[place]* _____ on *[date]* _____

By *[signature of deponent]* _____

Witnessed by

Signature _____

Name _____

Address or phone no. _____

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

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.

ENDNOTES
1 KEY

Key to abbreviations

| | |
|-----------------------------|------------------------------|
| amd = amended | od = order |
| app = appendix | om = omitted |
| bl = by-law | pt = Part |
| ch = Chapter | r = regulation/rule |
| cl = clause | rem = remainder |
| div = Division | renum = renumbered |
| exp = expires/expired | rep = repealed |
| f = forms | s = section |
| <i>Gaz</i> = <i>Gazette</i> | sch = Schedule |
| hdg = heading | sdiv = Subdivision |
| ins = inserted | SL = Subordinate Legislation |
| lt = long title | sub = substituted |
| nc = not commenced | |

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) |

Oaths, Affidavits and Declarations (Consequential Amendments) Act 2010 (Act No. 40, 2010)

| | |
|-------------|---|
| Assent date | 18 November 2010 |
| Commenced | 1 March 2011 (s 2, s 2 <i>Oaths, Affidavits and Declarations Act 2010</i> (Act No. 39, 2010) and <i>Gaz G7</i> , 16 February 2011, p 4) |

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 |
| sch 5 | amd Act No. 40, 2010, s 130 |