

NORTHERN TERRITORY OF AUSTRALIA

MEDICAL SERVICES ACT
No. 75 of 1982
TABLE OF PROVISIONS

Section

PART I - PRELIMINARY

1. Short title
2. Commencement
3. Repeal and savings
4. Application
5. Definitions

PART II - PROVISION OF MEDICAL SERVICES

6. Powers of Minister
7. Powers and duties of Secretary
8. Delegation
9. Transport of patients inside and outside the Territory
10. Costs payable in certain circumstances
11. Referrals for specialist treatment

PART III - RECOVERY OF CHARGES

12. Charges, &c., recoverable as debt except in certain cases
13. Recovery of charges
14. Burial expenses
15. Remission or postponement of charges

PART IV - MISCELLANEOUS

16. Person in charge of hospital
17. Use of facilities by private practitioners
18. Regulations

SCHEDULE



NORTHERN TERRITORY OF AUSTRALIA

No. 75 of 1982

AN ACT

Relating to the provision and administration of
medical services and for other purposes

[Assented to 8 December 1982]

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

PART I - PRELIMINARY

1. SHORT TITLE

This Act may be cited as the *Medical Services Act 1982*.

2. COMMENCEMENT

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

3. REPEAL AND SAVINGS

(1) The Acts listed in the Schedule are repealed.

(2) All instruments of a legislative or administrative character made under any of the enactments repealed by this Act and in force immediately prior to the commencement of this Act shall, so far as is not inconsistent with this Act, continue in force as if made under this Act.

4. APPLICATION

This Act does not apply to, or in relation to, an institution in respect of which a licence has been granted under the *Private Hospitals and Nursing Homes Act*.

Medical Services

5. DEFINITIONS

In this Act, unless the contrary intention appears -

"attendant" means a person authorized by the Secretary to accompany a person who is travelling inside or outside the Territory before or after receiving medical treatment;

"declared premises" means premises the subject of a declaration under section 6(2)(a);

"dentist" means a person who is a registered dentist within the meaning of the *Dentists Registration Act*;

"dependant", in relation to a person, means -

- (a) the spouse of the person if he or she is wholly or partly dependent on that person for financial support; or
- (b) a child of the person who is wholly or partly dependent on that person for financial support;

"health practitioner" means a person engaged in the provision of a medical service referred to in paragraphs (c), (d), (e), (k) or (m) of the definition of medical services;

"hospital" means premises declared under section 6(2) to be a hospital;

"medical services" includes -

- (a) attendances by salaried dentists or salaried medical practitioners;
- (b) all forms of medical and dental diagnosis, advice, treatment and operation;
- (c) diagnosis, investigation and treatment by use of technological means including radiation, electro-magnetic and other electrical techniques, radioactive substances, ultra sound, audiometry, clinical and other laboratory techniques;
- (d) pathology services;
- (e) speech therapy, audiology, occupational therapy, physiotherapy, psychology, chiropody, optometry, orthoptist and other paramedical services including social worker services;
- (f) nursing services;

Medical Services

- (g) accommodation, maintenance and treatment in a hospital or nursing home;
- (h) treatment as an out-patient of a hospital either in the hospital or at an outlying clinic;
- (j) treatment as a patient at a community health centre;
- (k) chiropractic services;
- (m) natural therapy services;
- (n) the provision and repair of surgical footwear, prostheses, surgical aids and appliances, including home dialysis equipment and aids to daily living for the disabled;
- (p) the provision of drugs and dressings;
- (q) the collection of human blood and blood products;
- (r) the burial or cremation of stillborn infants and the disposal of human tissue; and
- (s) the reservation of medical practitioners' or dentists' time for appointments;

"nursing home" means premises which have been -

- (a) approved as a nursing home by the Permanent Head of the Commonwealth Department of Health under section 40AA of the *National Health Act 1953* of the Commonwealth; and
- (b) declared under section 6(2) to be a nursing home;

"patient" includes both in-patients who are admitted to a hospital or nursing home and out-patients who receive medical services at a hospital or outlying clinic but who are not admitted to a hospital or nursing home;

"private dentist" or "private medical practitioner" means a dentist or medical practitioner who is not a salaried dentist or medical practitioner;

"private nurse" means a nurse within the meaning of the *Nursing Act* other than a nurse employed full-time by the Territory;

Medical Services

"salaried dentist" or "salaried medical practitioner" means, as the case may be -

- (a) a dentist or medical practitioner who is employed on a full-time basis by the Territory; or
- (b) a dentist or medical practitioner who is retained by the Territory to provide a service, but only during such period as he is so employed;

"Secretary" means the Departmental Head of the Department of the Public Service primarily responsible under the Minister for the administration of this Act;

"vehicle" means a vehicle within the meaning of the *Motor Vehicles Act*;

"visiting dentist" or "visiting medical practitioner" means a private dentist or private medical practitioner approved under section 17(1) by the Secretary.

PART II - PROVISION OF MEDICAL SERVICES

6. POWERS OF MINISTER

(1) The Minister may, as he thinks fit, arrange for the provision of medical services.

(2) The Minister may, by notice in the *Gazette* -

- (a) declare premises to be -
 - (i) a hospital;
 - (ii) a nursing home;
 - (iii) an urban health centre; or
 - (iv) such other centre as he determines and specifies in the notice; or
- (b) determine the charges to be made for medical services provided under this Act, which charges may vary according to whether or not the services -
 - (i) are provided at declared premises;
 - (ii) are received by a person who -
 - (A) is an eligible pensioner within the meaning of section 3(1) of the *Health Insurance Act 1973* of the Commonwealth;

Medical Services

- (B) has been declared under section 5B, 5D or 5E of that Act to be a disadvantaged person;
 - (C) is insured in respect of such charges; or
 - (D) is an alien; or
- (iii) have been provided by, or at the request of, a private dentist or private medical practitioner.

7. POWERS AND DUTIES OF SECRETARY

(1) The Secretary shall be responsible for the management of all hospitals, nursing homes and medical services which are provided by the Territory.

(2) The Secretary may -

- (a) appoint a person to be the person in charge of a hospital or nursing home provided by the Territory;
- (b) recover, subject to the provisions of this Act, from persons receiving them, the cost of medical services;
- (c) authorize persons to recover charges for medical services provided by, or on behalf of, the Territory; and
- (d) institute proceedings against any person who contravenes or fails to comply with this Act or the Regulations.

8. DELEGATION

(1) The Secretary may, by instrument in writing, delegate to a person any of his powers and functions under this Act, other than this power of delegation.

(2) A power or function delegated under this section, when exercised or performed by the delegate, shall, for the purpose of this Act, be deemed to have been exercised or performed by the Secretary.

(3) A delegation under this section does not prevent the exercise of a power or the performance of a function by the Secretary.

9. TRANSPORT OF PATIENTS INSIDE AND OUTSIDE THE TERRITORY

(1) The Secretary may make such provision as he thinks fit for the transport, whether by ambulance or otherwise -

Medical Services

- (a) of a person for whom the provision of a medical service is necessary; and
- (b) of a person for whom a medical service has been provided.

(2) Where, following receipt of a report made by a salaried medical practitioner, the Secretary is of the opinion that it is necessary that a medical service be provided outside the Territory to a person, the Secretary may authorize -

- (a) the transport of that person from a specified place in the Territory to a specified place outside the Territory for the purpose of his being provided with that medical service; and
- (b) the return transport of that person after the medical service has been provided.

(3) Where the Secretary is of the opinion that it is necessary that a person for whom transport is provided under sub-section (1) or whose transport has been authorized under sub-section (2) be under the care of an attendant, the Secretary may, subject to section 11, authorize the transport, including the return transport, of the attendant at the expense of the Territory.

(4) Where transportation of a person is provided or authorized under this section, the Territory shall not be liable for an injury or aggravation of an injury to the person or his attendant directly attributable to the transportation, except where the attendant is an employee within the meaning of the *Public Service Act* carrying out his duties in respect of his employment.

(5) Where the transport of a person or of a person and an attendant is provided or authorized under this section, and the medical service for which the transport is provided or authorized is a service for which the consent of the person or of a person authorized by law to give such a consent has been given, or an operation that may be performed under the *Emergency Medical Operations Act*, the transport so authorized shall be deemed to be part of the medical service.

10. COSTS PAYABLE IN CERTAIN CIRCUMSTANCES

Where the transport of a person or of a person and an attendant is carried out as authorized under section 9, that person or, if that person is a dependant, the person upon whom he is dependent, is liable -

- (a) if he is entitled under a contract of insurance or another law in force in the Territory to recover an amount not less than the cost of the transport - to reimburse to the Territory an amount equal to the cost of the transport; or

Medical Services

- (b) if he is entitled so to recover an amount that is less than that cost - to pay to the Territory the amount so recovered.

11. REFERRALS FOR SPECIALIST TREATMENT

(1) Where the referral of a patient to the nearest suitable specialist has been approved in accordance with Part III of the *National Health Act* 1953 of the Commonwealth, payment of travel and accommodation costs of that person shall not, subject to sub-section (3), be made by the Territory.

(2) Where benefits are payable by the Commonwealth in respect of a referral mentioned in sub-section (1), the patient concerned shall in the first instance pay the cost of travel and accommodation.

(3) Where a patient is in necessitous circumstances and unable to meet the cost of travel mentioned in sub-section (1), the Secretary may arrange for the whole or part of the cost of travel to be advanced to the patient and for the amount so advanced to be recovered from the patient or the Commonwealth.

PART III - RECOVERY OF CHARGES

12. CHARGES, &c., RECOVERABLE AS DEBT EXCEPT IN CERTAIN CASES

(1) A charge payable or an expense recoverable under this Act for services rendered or expenses incurred may be recovered as a debt due to the Territory.

(2) The Secretary may exempt from the obligation to make a payment referred to in sub-section (1) a person included in a class of persons designated by the Minister.

13. RECOVERY OF CHARGES

(1) Subject to this section, a charge payable under this Act for a medical service is payable by the person who receives the medical service.

(2) Subject to sub-section (3), where a person who receives medical services is a dependant, the person upon whom he is dependent is liable for payment of the charges in respect of those medical services.

(3) Where a person who receives medical services is an infant who is not a dependant, the infant and his parent or guardian, as the case may be, are jointly and severally liable for payment of the charges.

(4) Subject to sub-section (5), where a charge or part of a charge payable under this Act remains unpaid after the expiration of 2 months after the date upon which it became due and payable, there shall be added to the amount of the charge in arrears -

Medical Services

- (a) on the day following the expiration of the period of 2 months from the date on which the charge became due and payable - 5% of the charge or part of the charge in arrears; and
 - (b) on the expiration of each period of 2 months from that day - a further 5% of the amount in arrears (including the amount of any previous addition to the charge in arrears).
- (5) The Regulations may prescribe a variation in the rate of the additional amounts referred to in sub-section (4)(a) and (b).

14. BURIAL EXPENSES

(1) Subject to sub-section (2), where the Territory incurs expense in connection with the burial of the body of a person, the Territory may recover the amount of that expense as though the burial were a medical service received by that person.

(2) Where the Territory incurs expense in connection with the burial of the body of a still-born child, the Territory may recover the amount of that expense as though the burial were a medical service received by the woman who gave birth to the still-born child.

(3) Where the Territory incurs expense in connection with the disposal of a foetus, the Territory may recover the amount of that expense as though that disposal were a medical service received by the woman from whom the foetus was taken.

15. REMISSION OR POSTPONEMENT OF CHARGES

(1) The Minister may remit or postpone the payment of the whole or part of a charge payable to or an expense recoverable by the Territory under this Act.

(2) The Secretary may remit or postpone the payment of the whole or part of a charge payable, or an expense recoverable under this Act, including an additional amount payable by virtue of section 13(4), up to such amount as may from time to time be determined by the Minister.

PART IV - MISCELLANEOUS

16. PERSON IN CHARGE OF HOSPITAL

(1) The person in charge of a hospital or nursing home is responsible -

- (a) for the supervision of all medical services in the hospital or nursing home in such a manner as to ensure the maintenance of good, safe medical care for all patients of the hospital or nursing home;

Medical Services

- (b) for the maintenance of good order and conduct by staff and patients of, and visitors to, the hospital or nursing home; and
 - (c) to the Secretary, for the administration of the finances and personnel of the hospital or nursing home and the security of all staff, patients and property.
- (2) The person in charge of a hospital or nursing home may issue such instructions applicable to staff and patients of, and visitors to, the hospital or nursing home as may be necessary to secure the maintenance of good order and conduct in the hospital or nursing home and its grounds.
- (3) All persons in a hospital or nursing home or its grounds are subject to the control of the person in charge of the hospital or nursing home.
- (4) The owner, within the meaning of the *Motor Vehicles Act*, of a vehicle shall, at all times when the vehicle is in the grounds of a hospital or nursing home, ensure that the vehicle is not used in contravention of this Act and shall, for the purposes of this Act and the Regulations, be deemed to have control of the vehicle.

17. USE OF FACILITIES BY PRIVATE PRACTITIONERS

- (1) The Secretary may approve, with or without conditions, a private dentist or a private medical practitioner as a visiting dentist or a visiting medical practitioner in respect of declared premises.
- (2) Subject to any conditions imposed by the Secretary when giving his approval under sub-section (1), a visiting dentist may, at the declared premises in respect of which he has been approved, provide dental treatment for patients.
- (3) Subject to any conditions imposed by the Secretary when giving his approval under sub-section (1), a visiting medical practitioner may, at the declared premises in respect of which he has been approved, admit patients and provide medical treatment for those patients.
- (4) A patient admitted by a visiting medical practitioner is subject to the care and control of the person in charge of a hospital or nursing home but the visiting medical practitioner is directly responsible for the treatment of that patient.
- (5) The Secretary may approve a health practitioner to attend upon a patient in declared premises, and sub-sections (8) and (10) shall apply to a person so approved as if he were a visiting medical practitioner.

Medical Services

(6) The person in charge of a hospital or nursing home may approve a private nurse to attend upon a patient in the hospital or nursing home and such private nurse shall, when on the premises, be subject to the instructions of the person in charge of the hospital or nursing home.

(7) Nursing staff providing nursing services to a patient admitted to a hospital or nursing home by a visiting medical practitioner are subject to the general direction of the person in charge of the hospital or nursing home.

(8) A visiting dentist or a visiting medical practitioner using the facilities at the declared premises in respect of which he has been approved -

- (a) may be charged for the use of those facilities at rates determined by the Minister; and
- (b) is, as regards the use of those facilities, subject to the instructions of the person in charge of the declared premises.

(9) A visiting dentist or a visiting medical practitioner using the facilities of declared premises shall maintain medical records in accordance with the standards imposed by the person in charge of the declared premises.

(10) The Secretary may suspend or withdraw the approval given by him to a visiting dentist or visiting medical practitioner under sub-section (1) or given by the person in charge of a hospital or nursing home to a private nurse under sub-section (6), if the visiting dentist, visiting medical practitioner or private nurse fails to comply with the instructions of the person in charge of the declared premises.

18. REGULATIONS

The Administrator may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular for or in relation to -

- (a) exempting certain persons or classes of persons, either wholly or partly, from liability for charges;
- (b) regulating the admission of patients into and discharge from hospitals or nursing homes;
- (c) regulating the accommodation and maintenance in hospitals or nursing homes of persons who are patients of a private dentist or a private medical practitioner;

Medical Services

- (d) maintaining discipline, decency and cleanliness by and among persons in declared premises;
- (e) prescribing the duties and regulating the conduct of persons employed in declared premises;
- (f) regulating the general care, management, control and supervision of declared premises;
- (g) prohibiting the introduction of specified articles into declared premises;
- (h) maintaining order in declared premises and in their grounds;
- (j) prohibiting smoking in declared premises except in such places as are specially designated by the person in charge of the hospital or nursing home;
- (k) regulating and prohibiting the parking of vehicles in the grounds of declared premises;
- (m) regulating the speed limits of vehicles using roadways in the grounds of declared premises; and
- (n) prescribing penalties not exceeding \$1,000 for offences against the Regulations.

SCHEDULE

Section 3

ORDINANCES AND ACTS REPEALED

Hospitals and Medical Services Ordinance 1953
Hospitals and Medical Services Ordinance 1957
Hospitals and Medical Services Ordinance 1962
Hospitals and Medical Services Ordinance 1964
Hospitals and Medical Services Ordinance 1965
Hospitals and Medical Services Ordinance (No. 2) 1965
Hospitals and Medical Services Ordinance 1970
Hospitals and Medical Services Ordinance 1975
Hospitals and Medical Services Ordinance 1976
Hospitals and Medical Services Act 1978
Hospitals and Medical Services Act 1979
Hospitals and Medical Services Amendment Act 1981
