



Australian Capital Territory

Public Health (Cancer Reporting) Regulations

Subordinate Law No. 19 of 1994¹

The Australian Capital Territory Executive makes the following Regulations under the *Public Health Act 1928*.

Dated 20 June 1994.

TERRY CONNOLLY
Minister

BILL WOOD
Minister

Citation

1. These Regulations may be cited as the Public Health (Cancer Reporting) Regulations.

Commencement

2. These Regulations commence on the day on which they are notified in the *Gazette*.

Interpretation

3. In these Regulations, unless the contrary intention appears—

“approved form” means the form approved by the Medical Officer of Health for the purposes of the provision in which the expression occurs;

“cancer” means a malignant growth of human tissue that has the potential to invade tissue beyond its site of origin (other than a basal cell carcinoma, or a squamous cell carcinoma, of the skin) and includes leukaemia;

“health facility” means—

- (a) a hospital; or
- (b) a nursing home;

“medical practitioner” means—

- (a) a person registered as a medical practitioner under the *Medical Practitioners Act 1930*; or
- (b) a person who is to be deemed to be registered under the *Medical Practitioners Act 1930* by virtue of section 25 of the *Mutual Recognition Act 1992* of the Commonwealth;

“register” means the register maintained under regulation 7.

Obligation to notify

4. (1) If—

- (a) the result of a test performed on a specimen by a pathologist indicates the presence of cancer;
- (b) a person who is a patient or resident at a health facility is found to have cancer; or
- (c) a person is treated for cancer at a health facility;

the responsible person shall cause notice in the approved form to be given to the Medical Officer of Health as soon as practicable after the pathologist obtains the result, the patient or resident is found to have cancer or the person is treated for cancer.

(2) Nothing in subregulation (1) shall be taken to require a responsible person to give notice to the Medical Officer of Health in relation to a person more than once in any 12 month period if the cancer in relation to which a notice would, but for this subregulation, be required to be given is the cancer already notified by the responsible person, or a natural progression from it.

(3) For the purposes of subregulations (1) and (2), the responsible person is—

- (a) in relation to a specimen tested by a pathologist—
 - (i) where the pathologist is employed in a laboratory at a hospital—the person responsible for the day-to-day control of the laboratory;
 - (ii) where the pathologist performed the test in the course of his or her employment, being employment other than in a laboratory at a hospital—the person by whom the pathologist is employed; or
 - (iii) in any other case—the pathologist; or
- (b) in relation to a finding that a patient or resident at a health facility has cancer, or to the treatment of a person for cancer at a health facility—
 - (i) where the facility is a private hospital registered under the Public Health (Private Hospitals) Regulations—the holder of the certificate of registration in respect of the hospital; or
 - (ii) in any other case—the person responsible for the day-to-day control of the facility.

Request for information or clarification

5. (1) If—

- (a) the Medical Officer of Health has received a notice under regulation 4;
- (b) the notice does not contain all the information required under that regulation or the information is unclear; and
- (c) the Medical Officer of Health is aware of the identity of any medical practitioner who professionally attended the patient;

the Medical Officer of Health may, by notice in writing, request the information required, or clarification of the information given, from that medical practitioner.

(2) The Medical Officer of Health shall not make a request under subsection (1) unless satisfied that the medical practitioner to whom the request is made professionally attended the patient within the period of 12 months before the date of the notice containing the request.

(3) In this regulation—

“patient” means the person to whom the relevant notice relates.

Protection of persons giving notice etc.

6. Where a person gives notice or causes notice to be given under regulation 4 or provides or clarifies information requested under regulation 5—

- (a) the notification, provision or clarification shall, for all purposes, be taken not to be a breach of confidence or of professional etiquette or ethics or of a rule of professional conduct; and
- (b) no civil or criminal liability is incurred by reason only of the giving of the notification, by causing it to be given or by providing or clarifying the information.

Cancer register

7. The Medical Officer of Health shall maintain a register and shall enter in it—

- (a) particulars contained in any notice given under regulation 4; and
- (b) any information, including any clarification of information already on the register, received in response to a request under regulation 5.

Provision of particulars from the register

8. (1) The Medical Officer of Health may disclose particulars on the register—

- (a) where the usual place of residence of the person to whom the particulars relate is a State or another Territory—to the person responsible for the maintenance of a cancer registry, if any, established under a law in that State or Territory; or
- (b) to a person approved in writing by the Minister.

(2) The Minister shall not approve a person for the purposes of paragraph (1) (b) unless satisfied that the person is engaged in—

- (a) the collection of cancer statistics; or
- (b) medical research.

Notice of decision

9. (1) Where the Minister refuses to approve a person under paragraph 8 (1) (b), he or she shall, within 28 days, give notice in writing of that refusal to the Medical Officer of Health and to the person refused approval.

(2) A notice under subregulation (1) shall—

- (a) include a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1989*, an application may be made to the

Administrative Appeals Tribunal for a review of the decision to which the notice relates; and

- (b) except where subsection 26 (11) of that Act applies—include a statement to the effect that a person whose interests are affected by the decision may request a statement under section 26 of that Act.

(3) The validity of a decision referred to in subregulation (1) is not to be taken to be affected by a failure to comply with this regulation.

Review of decision

10. Application may be made to the Administrative Appeals Tribunal for a review of a decision of the Minister under paragraph 8 (1) (b) to refuse to approve a person.

Confidentiality

11. (1) A person shall not, otherwise than for the purposes of these Regulations or as required by law, make a record of or divulge or communicate to any person any information or document, being information or a document that the first-mentioned person acquired under or by virtue of these Regulations.

Penalty: \$1,000.

(2) This regulation does not affect the operation of any other law relating to the confidentiality of information or documents.

NOTE

- 1. Notified in the ACT Gazette on 23 June 1994.