



Australian Capital Territory

Public Health (Cervical Cytology) Regulations

Subordinate Law No. 30 of 1994¹

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

Dated 19 September 1994.

TERRY CONNOLLY
Minister

BILL WOOD
Minister

PART I—PRELIMINARY

Citation

1. These Regulations may be cited as the Public Health (Cervical Cytology) Regulations.

Commencement

2. (1) Regulation 1 and this regulation commence on the day on which these Regulations are notified in the *Gazette*.

(2) The remaining provisions commence on a day, or respective days, fixed by the Minister by notice in the *Gazette*.

(3) If a provision referred to in subregulation (2) has not commenced before the end of the period of 6 months commencing on the day on which these regulations are notified in the *Gazette*, that provision, by force of this subregulation, commences on the first day after the end of that period.

Interpretation

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

“abnormal”, in relation to test results, means test results that indicate abnormal cell growth in the cervix of the uterus;

“cervical cancer” means a malignant growth of human tissue in the cervix of the uterus that has the potential to invade tissue beyond its site of origin;

“Cervical Cytology Register” means the register maintained under regulation 6;

“cervical material” means cervical tissue taken from a woman to determine whether she has cervical cancer;

“cervical smear” means cervical tissue taken from a woman to determine whether she has a precursor to cervical cancer;

“health practitioner” means—

- (a) a person registered as a medical practitioner under the *Medical Practitioners Act 1930*;
- (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;
- (c) a person registered as a general nurse under the *Nurses Act 1988*; or
- (d) a person who is to be deemed to be registered under the *Nurses Act 1988* by virtue of section 25 of the *Mutual Recognition Act 1992* of the Commonwealth;

“identification code”, with respect to a health practitioner or laboratory, means a code used in connection with the Cervical Cytology

Register that identifies the health practitioner or laboratory for the purposes of the Register;

“laboratory” means a place, whether within or outside the Territory, at which—

- (a) pathological (cytology) examinations of cervical smears;
or
- (b) pathological (histology) examinations of cervical material;
are undertaken;

“management committee” means the management committee established under regulation 12;

“member” means a member of the management committee;

“pathology request form” means a pathology request form relating to a pathological (cytology) examination of a cervical smear or a pathological (histology) examination of cervical material;

“refusal of consent marker”, in relation to a cervical smear, means a clearly visible marker that may be placed on the pathology request form to indicate that the registrable particulars with respect to the woman are not to be registered;

“registered” means entered on the Cervical Cytology Register;

“registrable particulars” means particulars prescribed by regulation 11;

“test results”, in relation to a woman, means the results of—

- (a) a pathological (cytology) examination of a cervical smear taken from her; or
- (b) a histological examination of cervical material taken from her;

“woman” means a woman who is ordinarily resident in the Territory.

PART II—THE REGISTER

Obligations of health practitioner and person in charge of laboratory

4. (1) If a woman informs a health practitioner who takes a cervical smear or cervical material that she does not consent to registration of her registrable particulars, the practitioner shall attach a refusal of consent marker to the pathology request form.

(2) A health practitioner shall not attach a refusal of consent marker to a pathology request form unless the woman from whom the cervical smear

or cervical material is taken informs the practitioner that she does not want her registrable particulars registered.

(3) The person responsible for the day-to-day control of a laboratory shall, as soon as practicable after the examination of a cervical smear or of cervical material, cause the related registrable particulars to be sent to the Medical Officer of Health unless a refusal of consent marker is attached to the relevant pathology request form.

Protection of persons in control of laboratories

5. Where a person responsible for the day-to-day control of a laboratory causes registrable particulars to be sent to the Medical Officer of Health in accordance with subregulation 4 (3)—

- (a) sending the particulars, or causing the particulars to be sent, 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 sending the particulars or causing them to be sent.

Cervical Cytology Register

6. (1) The Medical Officer of Health shall maintain a register to be known as the Cervical Cytology Register.

(2) The Medical Officer of Health shall enter in the Register the registrable particulars provided under regulation 4.

Use of particulars on Cervical Cytology Register

7. (1) The Cervical Cytology Register is to be used—

- (a) to remind any woman who has failed to have her cervical smear taken within a reasonable time after the expiration of an appropriate interval that she should have a smear taken;
- (b) to establish a record of test results that links each woman on the Register with her health practitioner and any laboratory that produces her test results;
- (c) to monitor test results to encourage consistency of performance between laboratories; and
- (d) to provide data—
 - (i) to assess participation in the cervical cancer prevention program;

- (ii) to assist in the design of strategies to educate women to take responsibility for having a cervical smear taken at appropriate intervals;
- (iii) to assist in the design of strategies to encourage women to be included in the Register;
- (iv) for use in research programs approved under paragraph (4) (a) into the alleviation and prevention of cervical cancer;
- (v) to increase public awareness by the publication of statistics; and
- (vi) to assist in the compilation of comparative data by national organisations approved under paragraph (4) (b).

(2) Where—

- (a) a woman's last registered test results are normal;
- (b) a year has elapsed since the expiration of the appropriate interval after the taking of that smear; and
- (c) the woman has not had a further smear taken;

the Medical Officer of Health shall notify the woman that she is overdue to have her next cervical smear taken.

(3) Where—

- (a) a woman's last registered test results are abnormal;
- (b) the laboratory that examined her last cervical smear specified a time in accordance with paragraph 11 (h); and
- (c) the woman has not had a further smear taken within a reasonable time after the time referred to in paragraph (b);

the Medical Officer of Health shall take reasonable steps to ensure that appropriate action is taken to notify the health practitioner who took the last smear, or the woman, that the woman's next smear is overdue.

(4) The Minister may, by instrument, approve—

- (a) research programs for the purposes of subparagraph (1) (d) (iv); and
- (b) national organisations for the purposes of subparagraph (1) (d) (vi).

(5) The Minister may only approve a research program under paragraph (4) (a) if he or she is satisfied that the disclosure of the information for the program and its use would meet the requirements of the

Privacy Act in relation to medical research, notwithstanding whether the Privacy Act applies to the research program of its own force.

(6) An approval under subregulation (4) is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.

(7) In this regulation—

“appropriate interval” means the interval that the Medical Officer of Health has determined to be appropriate between cervical smears;

“Privacy Act” means the *Privacy Act 1988* of the Commonwealth.

Disclosure of identifying information—women

8. (1) A person shall not, without reasonable excuse, disclose particulars on the Cervical Cytology Register in such a manner that the woman to whom the particulars relate is reasonably able to be identified, unless the woman consents in writing to such disclosure.

Penalty: \$500.

(2) Subregulation (1) does not apply to a disclosure under subregulation 7 (3) of particulars about a woman to—

- (a) a laboratory at which a cervical smear or cervical material taken from the woman is being examined in accordance with a pathology request form; or
- (b) a health practitioner who has taken a cervical smear or cervical material from the woman.

(3) Upon a woman’s written request, the Medical Officer of Health shall disclose to her any particulars on the Cervical Cytology Register that relate to her alone.

Disclosure of identifying information—health practitioners and laboratories

9. A person shall not, without reasonable excuse, disclose particulars on the Cervical Cytology Register in such a manner that a health practitioner or laboratory to whom the particulars relate is reasonably able to be identified, unless the health practitioner or person responsible for the day-to-day control of the laboratory (as the case requires) consents in writing to such disclosure.

Penalty: \$500.

Deletion of material on Cervical Cytology Register

10. The Medical Officer of Health shall, as soon as practicable after receipt of a written request by a woman, remove from the Cervical Cytology Register any particulars that could reasonably enable the woman to be identified.

Registrable particulars

11. The following particulars with respect to a woman and her cervical smear or cervical material are registrable:

- (a) her full name and any previous name;
- (b) her date of birth;
- (c) her postal address;
- (d) the date the smear or material was taken;
- (e) the identification code of the laboratory that examined the smear or material;
- (f) the identification code of the health practitioner who took the smear or material;
- (g) her test results;
- (h) in relation to a smear with abnormal test results—the period of time, if any, within which the laboratory that examined the smear has advised the health practitioner who took the smear to take another smear.

PART III—THE MANAGEMENT COMMITTEE

Establishment

12. The Medical Officer of Health shall establish and maintain a management committee in accordance with this Part.

Constitution

13. The management committee shall be constituted by not less than 7 members and not more than 9 members, appointed in writing by the Medical Officer of Health, of whom—

- (a) 2 shall be nominees of the ACT Division of General Practice Incorporated;
- (b) 1 shall be a nominee of the ACT Branch of the Royal College of Pathologists of Australasia;

- (c) 1 shall be a nominee of the ACT Branch of the Royal Australian College of Obstetricians and Gynaecologists;
- (d) 1 shall be a nominee, and member, of the A.C.T. Cancer Society Incorporated;
- (e) 1 shall be a person who, in the opinion of the Medical Officer of Health, represents a group whose main purpose is to consider and comment on the provision of health services on behalf of the community; and
- (f) 1 shall be a public servant whose functions include the maintenance of the Register.

Functions

14. (1) The functions of the management committee are as follows:

- (a) to monitor the use, role and maintenance of the Cervical Cytology Register;
- (b) to advise the Medical Officer of Health in relation to the use, role and maintenance of the Register;
- (c) to advise public servants maintaining the Register in relation to relevant areas in which members have expertise.

(2) The Medical Officer of Health shall consider any advice of the management committee under subregulation (1).

Powers

15. The management committee has power to do all things necessary or convenient to be done for or in connection with the performance of its functions.

Terms of appointment

16. (1) A member holds office as a part-time member.

(2) A member holds office for such period, not exceeding 2 years, as is specified in the instrument of appointment.

(3) A member may be re-appointed.

Appointment of Chairperson and Deputy Chairperson

17. The Medical Officer of Health shall appoint—

- (a) a member of the management committee who is a member of the A.C.T. Cancer Society Incorporated and is nominated by that body as Chairperson; and

- (b) a Deputy Chairperson from the members of the management committee.

Resignation

18. A member may resign his or her office by writing signed by the member and delivered to the Medical Officer of Health.

Termination of appointment

19. The Medical Officer of Health may terminate the appointment of a member for misbehaviour or physical or mental incapacity.

Acting members

20. (1) The Medical Officer of Health may appoint a person to act as a member—

- (a) during a vacancy in the office of the member, whether or not an appointment has previously been made to the office; or
- (b) during any period, or during all periods, when the member is, for any reason, unable to perform the functions of the office.

(2) A person appointed to act as a member shall not act continuously for more than 12 months.

(3) Anything done in good faith by or in relation to a person purporting to act under subsection (1) is not invalid on the ground that—

- (a) the person's appointment was ineffective or had ceased to have effect; or
- (b) the occasion for the person to act had not arisen or had ceased.

Meetings

21. (1) The Chairperson, or, if he or she is unable to do so, the Deputy Chairperson, shall—

- (a) convene such management committee meetings as the Chairperson or Deputy Chairperson, as the case requires, considers necessary for the efficient performance of the committee's functions; and
- (b) if requested by the Medical Officer of Health or on receipt of a written request signed by a majority of members, convene a meeting.

(2) The Chairperson shall, in each period of 12 months, convene at least 4 meetings.

Procedure at meetings

22. (1) The Chairperson shall preside at all management committee meetings at which he or she is present.

(2) Where the Chairperson is not present at a meeting the Deputy Chairperson shall preside.

(3) Where the Chairperson and Deputy Chairperson are both absent from a meeting, the members present shall elect 1 of their number to preside.

(4) The member presiding at a meeting may give directions regarding the procedure to be followed in connection with the meeting.

(5) Questions arising at a meeting shall be decided by a majority of the votes of the members present and voting.

(6) The member presiding at a meeting has a deliberative vote and, in the event of an equality of votes, a casting vote.

(7) The management committee shall keep minutes of its proceedings.

Conduct of affairs

23. Subject to these Regulations, the management committee may conduct its affairs in such manner as it thinks fit.

NOTE

1. Notified in the ACT Gazette on 23 September 1994.