



**REPUBLIC OF NAURU**

**HEALTH AND MEDICAL SERVICES ACT 2025**

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**No. 35 of 2025**

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An Act to provide for the administration of health care facilities, provision of for health and medical services and for related purposes.

Certified: 29 August 2025

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Enacted by the Parliament of Nauru as follows:

## **PART 1 – PRELIMINARY**

### **1 Short title**

This Act may be cited as the *Health and Medical Services Act 2025*.

### **2 Commencement**

This Act commences on the date it is certified by the Speaker.

### **3 Objectives**

The objectives of this Act are to:

- (a) provide for health care facilities;
- (b) provide for the administration and staff of health and medical service facilities
- (c) provide for the regulation of private health care facilities;
- (d) establish the Board;
- (e) establish the Committee;
- (f) provide for the rights and responsibilities of patients;
- (g) provide for the rights and responsibilities of health practitioners;
- (h) promote, protect, develop and modernise technological means for the provision of health care services;
- (i) prevent and contain the spread of infectious or contagious diseases;
- (j) providing collective general health services including surgery, paediatric, ophthalmology, mental health, pharmaceutical, palliative care, overseas medical referrals and similar services;
- (k) collate, record and maintain health records for medical treatment, educational, research or any other lawful purpose;
- (l) provide security and protection of health records of patients ensuring in maintaining privacy and confidentiality;
- (m) promote e-health and medical tourism;
- (n) establishing medical tourism;
- (o) establishing and maintaining appropriate mortuary services;
- (p) ensure professional services are provided by health practitioners and health service providers, which is expected of a reasonable and prudent health practitioner or health service provider; and

- (q) ensure continuous development of the provision of health and medical services including the adopting of new medicines, technology and other healthcare developments.

#### 4 Interpretation

In this Act:

**‘adult’** means a person who has attained the age of 18 years;

**‘assessment’** includes a general or specific clinical or medical examination resulting in a provisional, differential or definitive diagnosis;

**‘Board’** means the Health Facilities and Services Board established under Section 19;

**‘caregiver’** means a person who is responsible for:

- (a) caring for the health, financial and physical security and general well-being of a person; and
- (b) the prescribed care of a person;

**‘Chief Correctional Officer’** has the same meaning given to it under Section 7 of the *Correctional Service Act 2009*;

**‘Committee’** means the Overseas Medical Referral Compliance Committee established under Section 71;

**‘complementary medicines’** means health care practices that are not part of Nauru’s own traditional or conventional medicine but are approved by the National Drug and Therapeutic Committee;

**‘Department’** means the Department of Health and Medical Services established under the *Public Service Act 2016*;

**‘Director of Medical Services’** means the office of the Director of Medical Services established under Section 10;

**‘Director of Nursing, Policy and Standards’** means the office of the Director of Nursing, Policy and Standards established under Section 13;

**‘e-health’** means the combined use of digital and electronic communication for the provision of health and medical services including digital and electronic health record, telehealth and telemedicine;

**‘health information’** means:

- (a) information or opinion in relation to the physical, mental or psychological health or disability of an individual obtained and retained by a health service provider in the course of providing health care service;
- (b) diagnostic, treatment and care information; and
- (c) patient demographic and registration information;

**'health and medical services'** includes services related to the prevention of illnesses, promotion and maintenance of health, or care and treatment of sick, injured or mentally and physically incapacitated persons, and includes:

- (a) hospital services;
- (b) medical health services;
- (c) mental health and psychiatric services;
- (d) drug abuse and addiction services;
- (e) long term in-patient or out-patient care services;
- (f) overseas medical referral services;
- (g) home care and community health services;
- (h) paediatric services;
- (i) pharmacy services;
- (j) practice of complementary medicines;
- (k) dental services;
- (l) ambulance services;
- (m) palliative care services;
- (n) paramedical services;
- (o) diagnostic services;
- (p) mortuary services;
- (q) medical waste management services;
- (r) health and medical linen services;
- (s) health and medical food and catering services;
- (t) any prescribed services;

**'health practitioner'** has the meaning given to it under the *Health Practitioners Act 1999*;

**'health service provider'** includes a private health or medical practice established in the Republic for the purposes of providing health care service;

**'hospital'** means any institution that provides for the medical and surgical treatment of patients;

**'in-patient'** means a person who is admitted to a hospital;

**'health care management'** includes examination, assessment, diagnosis, investigation or treatment;

**'Minister'** means the Minister responsible for Health and Medical Services;

**'minor'** means a person who has not attained the age of 18 years;

**'national health number'** means a number assigned to a patient by a health and medical service facility;

**'nosocomial infection'** means an infection acquired in a hospital, health centre or clinic which may or may not be a health and medical service facility;

**'out-patient'** means a person who is registered as an out-patient at a health and medical service facility;

**'paying ward'** means an admission ward in a hospital that is a health and medical service facility where a patient is required to pay the prescribed fees for the accommodation or health and medical services or both;

**'private health care facility'** means a health care facility not funded by the Government;

**'health and medical service facility'** means a health care facility funded wholly or partially by the Government;

**'Secretary'** means the Secretary for Health and Medical Services;

**'treatment'** means the management and care of a patient to treat an injury, disease, disorder or limitation of disability; and

**'valuables'** includes money, jewellery, mobile phone, laptop, tablet and any other personal effect of value.

## **PART 2 – HEALTH AND MEDICAL SERVICE FACILITIES**

### **5 Health and medical service facilities**

- (1) Health and medical service facilities shall comprise of public and private facilities.
- (2) The following shall be deemed to be health and medical service facility:
  - (a) a facility in Schedule; or
  - (b) a hospital, health centre or clinic declared by the Minister by notice published in the Gazette.
- (3) The Minister may, where he or she deems necessary, declare any other place to be a health and medical service facility to provide for specific or temporary health and medical services.
- (4) The structure of health care facilities shall comply with building standards or code as may be prescribed.

### **6 Purpose of health and medical service facilities**

- (1) The purpose of a health and medical services facility is to provide health and medical services funded wholly or partially by the Government.
- (2) A health and medical service facility shall, within the limits of its available resources:
  - (a) endeavour to promote and improve the health of all persons;
  - (b) promote the inclusion of health and medical services in the National Sustainable and Development Plan of the Republic by implementing the National Health Strategic Plan;
  - (c) determine the measures necessary to protect, promote, improve and maintain the provisions of health and medical services to the community;
  - (d) ensure the provision of health and medical service; and
  - (e) equitably prioritise the health and medical services the Republic provides within the limits of its financial, human resources and other constraints.

**7 Health and medical services may be provided with or without any cost**

- (1) Subject to subsection (2), the Cabinet may prescribe:
  - (a) such health and medical services which shall be provided without any fee or charge;
  - (b) the categories of persons who may be eligible for the prescribed health and medical services under paragraph (a); or
  - (c) such health and medical services which may be provided at a prescribed fee or charge.
- (2) A private health care facility which does not receive any funding from the Government, may determine its own fee and charge.

**PART 3 – ADMINISTRATION AND STAFF OF HEALTH AND MEDICAL SERVICE FACILITIES**

**8 Functions of the Secretary of Health and Medical Services**

- (1) The Secretary shall:
  - (a) manage, maintain, administer and direct the operations of the health and medical service facility and related services and operations;
  - (b) monitor the provision of health and medical services including ensuring such services are provided equitably;
  - (c) establish such health and medical services as are required under this Act;
  - (d) implement the National Health Strategic Plan;
  - (e) cause to be kept and maintained patient information and records;

- (f) ensure that appropriate standards of health care and services, patient care and service delivery are adopted and applied in the provision of health and medical services;
  - (g) ensure proper regulatory measures are taken in relation to:
    - (i) any matter which may cause or contribute to the spread of a disease or an infection;
    - (ii) all health-related matters concerning the sale of food, provision of water and sanitary conveniences and facilities in residential and commercial premises and in public areas; and
    - (iii) such other matters which adversely affects the health of the community;
  - (h) establish and implement systems of quality control, complaints and grievances related to the provision of health care services;
  - (i) manage and implement schemes for the referral of eligible patients for specialised medical treatment outside the Republic;
  - (j) ensure that the Department establishes and maintains a consultative process with the community on health care needs and service priorities;
  - (k) provide advice to the Minister in relation to the implementation and administration of this Act, the provision of health care services or the protection or promotion of public health;
  - (l) provide advice and seek appropriate recommendation from the Minister to continue to modernise and upgrade medication and treatment consistent with international developments and recommendations of World Health Organisation;
  - (m) at the request of the Minister, provide advice on any other matter which the Minister may require;
  - (n) ensure that the requisite standards for health and medical services are prescribed and monitored; and
  - (o) do any act or thing authorised by this Act or any other written law.
- (2) The Secretary may, in consultation with the Minister, delegate such duties and responsibilities to any other staff as the Secretary deems necessary.

## **9 Powers of the Secretary**

The Secretary has the power to do all things necessary or convenient to be done for the performance of his or her functions under this Act or any other written law.

## **10 Delegation of functions and powers of the Secretary**

- (1) The Secretary may delegate his or her functions or powers under this Act to any person.

- (2) Where the Secretary delegates a function or power, he or she may monitor and regulate the performance of such function or exercise of such power.
- (3) A delegation under this Section does not prevent the Secretary from exercising any function or power.
- (4) A person delegated a function or power under this Section shall report to the Secretary as and when required by the Secretary.

## **11 Director of Medical Services**

- (1) There shall be a Director for Medical Services.
- (2) The Director for Medical Services shall be appointed by the Chief Secretary on the recommendation of the Secretary.
- (3) The Director of Medical Services reports to the Secretary on all such matters that is necessary under this Act.

## **12 Functions of the Director of Medical Services**

The Director of Medical Services shall:

- (a) oversee the daily operations of the hospital;
- (b) oversee overall patient care;
- (c) direct the hospital staff and clinical programmes;
- (d) evaluate developments in medical care and make recommendations to the Secretary and Board for new practices and procedures;
- (e) advise the Secretary, staff and the Board on matters related to patient care;
- (f) work and consult with staff, heads of the divisions of the health and medical service facility, directors appointed under this Act, and health practitioners to ensure that the highest standards of quality and service are maintained; and
- (g) perform such other duties and responsibilities as may be assigned or is necessary for the carrying out of such duties or responsibilities.

## **13 Powers of the Director of Medical Services**

The Director of Medical Services has the power to do all things necessary or convenient to be done for the performance of his or her functions under this Act or any other written law.

## **14 Director of Nursing Policy and Standards**

- (1) There shall be a Director for Nursing, Policy and Standards.

- (2) The Director for Nursing, Policy and Standards shall be appointed by the Chief Secretary on the recommendation of the Secretary.
- (3) The Director of Nursing, Policy and Standards reports to the Secretary on all such matters that is necessary under this Act.

**15 Functions of the Director of Nursing, Policy and Standards**

The Director of Nursing, Policy and Standards shall:

- (a) monitor compliance by nursing staff with applicable patient care policies or as directed by a general or specialist health practitioner;
- (b) develop, maintain and implement nursing policies, care plans and processes and procedures that conform to prevalent standards of nursing practice and operational policies;
- (c) in consultation with the Secretary and the Director of Medical Services, establish a training programme for nursing; and
- (d) perform such other duties and responsibilities as may be assigned or is necessary for carrying out such duties and responsibilities.

**16 Powers of the Director of Nursing Policy and Standards**

The Director of Medical Services has the power to do all things necessary or convenient to be done for the performance of his or her functions under this Act or any other written law.

**17 Minister may establish a section with the Department**

The Minister may in accordance with Section 11A of the *Public Service Act 2016* request the Minister for Public Service to establish a section within the Department.

**18 Staff of health and medical service facility**

The Chief Secretary shall in consultation with the Secretary appoint the staff of a health and medical service facility.

**19 Code of Conduct**

The staff shall comply with the Code of Conduct determined by the Secretary, in addition to the code of conduct issued under the *Public Service Act 2016*.

**PART 4 – HEALTH AND MEDICAL FACILITIES AND SERVICES BOARD**

**20 Health and Medical Services Board**

- (1) The Health and Medical Services Board is established for the purposes of the administration of the health and medical service facilities.
- (2) The Board shall consist of 3 members, who shall be appointed by the Cabinet, on the recommendation by the Minister.

- (3) The Minister may appoint a member of the Board in subsection (2) to be the Chairperson.
- (4) The members shall hold office for a term of 3 years and may be eligible for reappointed.
- (5) The Minister shall appoint a member of the staff to be the secretary to the Board.

## **21 Eligibility requirements for appointment as member of the Board**

- (1) In appointing the Board, the Cabinet shall have regard to whether the Board collectively possesses the appropriate knowledge, skills and experience in the public health sector.
- (2) A person shall not be eligible to be a member or is disqualified from being a member, if he or she:
  - (a) is a public service employee;
  - (b) is an undischarged bankrupt;
  - (c) has been convicted for an offence for which the imprisonment term is 12 months or more;
  - (d) is of unsound mind; or
  - (e) is nominated as a candidate in an election for the Parliament or elected as a Member of the Parliament .

## **22 Functions of the Health and Medical Services Board**

- (1) The Board shall:
  - (a) provide public feedback and recommendations to the Department for addressing the complaints and grievances of the members of the public in respect of health and medical service facility or services;
  - (b) assist the Department to develop and implement the National Health Strategic Plan;
  - (c) assist the Department to develop and implement national health policies and standards, including policies and standards for training and qualifications of health practitioners and for e-health and medical tourism;
  - (d) ensure that a health and medical service facility has a procurement, medical warehouse and storage plan, for clinical devices and equipment, medication, consumables and pharmaceutical supplies;
  - (e) encourage the health and medical service facility and health practitioners to continue to modernise and upgrade medication and treatment consistent with international developments and recommendations of World Health Organisation;

- (f) provide policy guidance and advice to the Department and the Minister for overseas medical referrals;
  - (g) implement recommendations of the Board upon the approval by the Minister; and
  - (h) have such other functions which the Minister may assign to the Board or prescribed.
- (2) For the avoidance of doubt, the Board shall not direct the administration, management or operations of a health and medical service facility.

## **23 Powers of the Board**

The Board has the power to do all things necessary or convenient to be done for the performance of its functions under this Act or any other written law.

## **24 Meetings of the Board**

- (1) The Board shall regulate its practice and procedure for meetings.
- (2) The Board shall hold such meetings as may be necessary for the performance of its functions and the exercise of its powers.
- (3) The Chairperson shall appoint the times and places for the meetings of the Board and the secretary may serve written notice or through electronic communication of such meetings to all the members.
- (4) A meeting of the Board may be held by a quorum of 2 members.
- (5) The Chairperson and in his or her absence, any member appointed by the Chairperson, shall preside at the meeting of the Board.
- (6) Each member has one vote and the decision of the majority of the members present at the meeting shall be the decision of the Board.
- (7) Where there is a tie in the number of votes, the Chairperson has a casting vote in addition to his or her deliberative vote.
- (8) The secretary shall maintain proper records of minutes and proceedings of meetings of the Board.

## **25 Vacation of office**

- (1) The office of a member becomes vacant:
  - (a) on the expiry of the term of the office of the member;
  - (b) on the death of the member;
  - (c) on the resignation of the member;

- (d) where the member is adjudged bankrupt;
  - (e) where the member fails to perform his or her functions under this Act;
  - (f) on the removal of the member from office under subsection (2);
  - (g) where the member is absent from 3 consecutive meetings of the Board except on leave granted by the Chairperson;
  - (h) where the member is nominated to be a candidate in an election for the Parliament or elected as a Member of the Parliament; or
  - (i) where a member has been convicted for an offence for which the imprisonment term is 12 months or more.
- (2) Where a member is determined by not less than 2 health practitioners, appointed by the Minister, to be incapable of performing his or her functions under the Act, the Minister shall recommend to the Cabinet that the member be removed as a Board member.
  - (3) The Cabinet may, on the recommendation of the Minister under subsection (2), remove a member and appoint another person to the Board.
  - (4) A vacancy in the office of a member shall not affect the validity of the proceedings or decisions of the Board.
  - (5) Where a vacancy occurs, the Chairperson shall as soon as practicable, inform the Minister in writing of the vacancy, so that a new member is appointed in accordance with this Act.

## **26 Remuneration of the Board**

A member is not entitled to a fixed remuneration but may be paid an allowance as may be determined by the Cabinet.

## **27 Disclosure of interest**

- (1) Where a member has any interest relating to health and medical service, he or she shall disclose the details of his or her interest in accordance with this Section as soon as practicable after the member becomes aware that he or she has an interest.
- (2) A disclosure under subsection (1) shall be recorded in the minutes of the meeting of the Board and the member shall:
  - (a) not take part after the disclosure in any deliberation or decision of the Board in respect of that matter; and
  - (b) be disregarded for the purposes of constituting a quorum for a meeting of the Board in that deliberation or decision.

## **PART 5 – RIGHTS AND DUTIES OF PATIENTS AND HEALTH PRACTITIONERS**

### **28 Patient may seek assistance**

A person, who is suffering from any form of illness, injury or physical or mental incapacity, may seek health care service or assistance from a health and medical service facility.

### **29 Health and medical service facility not to refuse services**

Subject to Section 31, a health and medical service facility shall provide health and medical services to a person who seeks assistance under Section 28.

### **30 Duties of person seeking health care service**

A person who seeks health and medical services from a health and medical service facility shall:

- (a) comply with the rules of the health and medical service facility;
- (b) provide to a health practitioner accurate information relating to his or her health or medical condition for which health and medical services or assistance is sought;
- (c) treat the staff of the health and medical service facility with dignity and respect; and
- (d) immediately bring to the attention of a health practitioner, any side or adverse effects of any treatment or medication prescribed by a health and medical service facility.

### **31 Limitations for provisions of health and medical services**

- (1) A health and medical service facility may decline to provide health and medical services to a person where:
  - (a) such person is physically or verbally abusive;
  - (b) he or she fails to comply with Section 29; or
  - (c) it does not provide a specialised health and medical service requested by a person, in which case the health and medical service facility may refer a person to consult or seek assistance from health practitioners other than those at the health and medical service facility.
- (2) The Secretary may implement or cause to implement measures for the containment of transmission of disease at a health and medical service facility, in which case such treatment may be provided outside the health and medical service facility, by its staff or other health service providers.

## **PART 6 – HEALTH AND MEDICAL SERVICE FACILITY RECORDS**

### **32 National health number system to be established by the Minister**

- (1) The Minister may, with the approval of the Cabinet, establish a national health number system where each patient is assigned a national health number.
- (2) The information required for the purposes of assigning a national health number to each patient shall be as prescribed.

**33            Person to provide national health number**

A person shall provide his or her national health number to a health and medical service facility on each occasion he or she seeks health and medical service from such facility.

**34            Secretary to establish, keep and maintain health and medical service facility records**

- (1) The Secretary shall establish, keep and maintain health and medical service services information system for health and medical service facilities including physical and in digital and electronic forms as part of the health information of the patients.
- (2) The health and medical service facilities shall record the health and medical care details of each patient under the national health number system established under Section 32.
- (3) The medical records shall be recorded and maintained in physical and in digital and electronic form capable of being retrieved if required to be produced in accordance with this Act or any other written law.

**35            Authorisation of accessibility to digital and electronic records**

- (1) The Minister may authorise a person to be responsible for the implementation, support, maintenance and development of the health care electronic information system for health and medical service facility and its prescribed accessibility.
- (2) The Secretary shall establish or cause to be established control measures to prevent unauthorised access to patient health records and the storage facility or system in which such records are kept.

**36            Confidentiality of health information kept and maintained under this Part**

- (1) All health information kept and maintained under this Part, is confidential and shall be maintained as privileged between a health practitioner and a patient.
- (2) Subject to subsection (3), the health information kept and maintained under this Part shall not be disclosed to any person without the written consent of the patient.
- (3) The health information kept and maintained under this Part may be disclosed and provided:
  - (a) to the patient, limited to a special report prepared by a health practitioner from the patient's record;

- (b) to staff of the health and medical service facility who require the information to provide health and medical services to the patient;
  - (c) for the purposes of overseas medical referral, limited to a special report prepared by a health practitioner from the patient's record;
  - (d) without any disclosure of the identity of a patient, for the purposes of:
    - (i) administration of the health and medical service facility;
    - (ii) any survey or assessment of an outbreak of any disease; or
    - (iii) improving the delivery of health care service;
  - (e) in connection or incidental to the administration and enforcement of this Act;
  - (f) pursuant to an order of a court of competent jurisdiction; or
  - (g) where required by any written law.
- (4) A person including a health practitioner shall not remove, review, receive health information from or reproduce and retain a copy of any such information without the prior written approval or authority of the Director of Medical Services or as permitted by a written law or an order of a court.
- (5) Where the health information of a Nauruan is obtained, kept or maintained by any other person or entity under an agreement, arrangement or understanding with the Department, such information or record shall, be provided by the person or entity who has the custody, power or control of such information or record, to a health and medical service facility when requested by the Director of Medical Services, without any fee or monetary compensation.
- (6) For the purposes of subsection (5), any agreement, arrangement or understanding which is inconsistent with this Section shall be deemed to be invalid and unenforceable to that extent.

### **37 Review and addition to health information**

A health practitioner providing care to a patient within the ordinary course and scope of his or her duties may review, receive information from and add information to the patient's health information as is necessary for the provision of treatment and care to the patient.

### **38 Retention of information required to be kept and maintained under this Act**

- (1) The Secretary shall keep and maintain records of:
- (a) any deliberation, decision, inquiry or any information that the Board receives in the performance of its functions or exercise of its powers under this Act; and

- (b) a patient's health information.
- (2) Any information or record that is required to be kept under this Act shall be kept and maintained:
- (a) in physical and in digital and electronic form so as to enable the Secretary to provide such information in accordance with this Act;
  - (b) in the case of information under subsection (1), for a period of 7 years; and
  - (c) in the case of a patient's health record, for an additional period of 7 years after the death of such patient.

**39 Procedure for archiving or disposing records**

The Secretary shall implement the prescribed procedure for the archiving or disposing of health records.

**PART 7 – CONSENT**

**40 Consent generally**

An adult is deemed to be making his or her decision for his or her health care management after receiving appropriate healthcare advice from health practitioners.

**41 Consent for medical examination, assessment, investigation or treatment for a minor**

In the case of a minor, the following persons may give consent for health care management:

- (a) a parent; or
- (b) a guardian.

**42 Obtaining consent in case of an adult incapable of giving consent**

Where an adult is incapable of giving consent for health care management, such consent may be given by one or more of the following persons who agree to make the decision for the health care management of such person:

- (a) the spouse;
- (b) an adult child;
- (c) a parent;
- (d) an adult sibling;
- (e) the primary care giver; or
- (f) a guardian, including a guardian who may be appointed by a court.

**43****Consent in case of emergency health care and treatment**

- (1) Where in an emergency a person is incapable of giving consent for health care and treatment, a health practitioner may provide such treatment to the person for the purposes of:
  - (a) saving the life of such person;
  - (b) minimising mental or physical injury or impairment to such person;
  - (c) alleviating pain or suffering of such person; or
  - (d) exercising the duty of care reasonably expected of a health practitioner under the prevailing circumstance.
- (2) The health practitioner or staff shall obtain consent as soon as practicable from:
  - (a) such person; or
  - (b) in any other case, from a person referred to in Section 42.
- (3) A health practitioner under this Section and Section 46 shall not incur any civil or criminal liability for failing to obtain a consent.

**44****Health practitioner to explain certain matters prior to obtaining consent**

A health practitioner shall explain the following to a patient of his or her health condition and any proposed cause of treatment, prior to obtaining consent for the purposes of health care management:

- (a) the health or medical condition of the patient;
- (b) the probable diagnosis;
- (c) the nature, consequence and risk of the proposed health care and treatment;
- (d) the likely consequence of not undertaking the treatment;
- (e) any alternative treatment or courses of action that might be reasonably considered in the circumstances of the particular case; and
- (f) such other matters the health practitioner deems necessary.

**45****Form of consent**

- (1) The consent of the patient shall be obtained by a health practitioner or staff.
- (2) A patient may give his or her consent orally or in writing.
- (3) A consent in writing under subsection (2) shall be executed:
  - (a) by the patient himself or herself;

(b) in the case of a person incapable of signing, by the person's thumbprint;  
or

(c) by a person referred to in Section 41.

(4) Where a consent is given by a patient orally, the health practitioner shall:

(a) have or require a witness, who may be a staff, to be present;

(b) record the consent in the health information;

(c) record the name, designation or relationship of the witness in the health record; and

(d) record the name and designation of the staff in the health information for the purposes of paragraph (a).

(5) A consent form and any other details which may be required for such consent shall be prescribed.

#### **46 Consent in case of an alleged offence**

(1) Where the Nauru Police Force requests a person to be examined for the purposes of an alleged offence, a health practitioner shall conduct such examination.

(2) Where a person is incapable of giving consent or refuses to give consent, the relevant provisions under this Part applicable to obtaining consent, shall apply.

(2) A person who interferes, obstructs or induces an alleged victim of an offence or crime to refuse to give consent commits an offence and upon conviction is liable to a term of imprisonment not exceeding 2 years.

#### **47 Admission of person**

(1) A person shall not be admitted into a health care facility, as a patient without the authority of a health practitioner and the consent of the person or any person referred to in Section 42.

(2) A person shall not be admitted to a health care facility unless, in the opinion of a health practitioner, it is clinically necessary for the person to be admitted.

#### **48 Baby born in health and medical service facility**

A baby born in a health and medical service facility shall, at the time of birth, be deemed to be admitted to that health and medical service facility until discharged by a health practitioner.

#### **49 Admission of person who may pose risk**

(1) Where a person, who is admitted to a health and medical service facility is likely to:

(a) cause risk or injury to himself or herself; or

(b) injure a patient, staff or any other person,

such person shall be kept under appropriate surveillance for his or her own safety and the safety of any other person.

- (2) A health practitioner who authorises the admission of a person under subsection (1) shall immediately inform the Director of Medical Services to provide for the necessary surveillance of the patient.
- (3) For the purposes of this Section, the Director of Medical Services may take such appropriate action including:
  - (a) isolating such patient in a separate ward or section;
  - (b) reporting the risk the patient may pose to the Nauru Police Force alerting it of such security risk; or
  - (c) engaging such person who would be able to contain such patient.

## **50**

### **Admission beds**

- (1) A person admitted to a health and medical service facility shall occupy the bed in the ward allocated to him or her.
- (2) A person admitted to a health and medical service facility shall not be given any special preference, unless he or she exercises an option to occupy a paying ward.
- (3) A patient may after admission be moved to any other ward by a health practitioner.
- (4) The Director of Medical Services may allocate patients to the care of a health practitioner.
- (5) A person admitted to a health and medical service facility shall not request that a specific health practitioner carry out his or her health care management, except where a female patient requests as a matter of preference in relation to a female's privacy, a female health practitioner, to carry out the patient's health care or treatment.

## **51**

### **Admission and discharge of prisoner**

- (1) A prisoner at the correctional centre who requires admission to a health and medical service facility shall be escorted by a correctional officer.
- (2) The correctional officer under subsection (1) shall provide to a health practitioner or the Director of Medical Services a copy of the committal warrant for the prisoner.
- (3) Where necessary, a correctional officer shall be permitted to remain at a health and medical service facility for the purpose of ensuring that the prisoner does not escape from a health and medical service facility.

- (4) Before a prisoner is discharged, a staff shall inform the Chief Correctional Officer of the intended discharge so that the prisoner is handed over to a correctional officer.
- (5) A prisoner, who leaves a health and medical service facility without being properly discharged, is deemed to have escaped from the correctional centre and shall be arrested without warrant by a correctional officer or police officer.
- (6) A prisoner, who contravenes subsection (5) is deemed to have committed an offence of escaping from lawful custody and upon conviction is liable to a term of imprisonment for 6 months in addition to his or her term of imprisonment.

## **52 Requirements for admission of infectious person**

- (1) A health practitioner, who suspects or diagnoses a person to be suffering from a contagious or infectious disease or condition, may direct that such person be admitted to an isolated or specialised ward to prevent the spread of such disease or condition.
- (2) A health practitioner may direct certain restrictions in respect of the movement or visitation for a patient under subsection (1), as he or she deems necessary for the purposes of preventing the spread of the disease or condition.

## **53 Requirements applicable to a patient with disorderly behaviour**

A patient admitted under this Part may be discharged from a health and medical service facility if such patient:

- (a) behaves in a disorderly manner;
- (b) refuses treatment offered to him or her;
- (c) fails to comply with the directions of a health practitioner; or
- (d) fails to comply with the provisions of this Act.

# **PART 8 – DISCHARGE OF PATIENTS**

## **54 Health practitioner to discharge a patient**

- (1) Subject to subsection (2), a patient admitted to a health and medical service facility is not permitted to leave the facility unless he or she has been discharged by a health practitioner.
- (2) A patient may be discharged against the recommendation of a health practitioner, where he or she signs an undertaking:
  - (a) that he or she made such decision against the recommendation of the health practitioner; and
  - (b) that the health practitioner shall not be liable for any adverse effect to his or her health that may be caused by the discharge.

## **55 Mandatory discharge**

Where a health practitioner is of the opinion that it is no longer necessary for a patient to remain admitted, the health practitioner shall:

- (a) communicate or cause to communicate the decision to the patient, where appropriate; and
- (b) discharge the patient from a health and medical service facility.

**56      Review of clinical status post discharge**

A patient may be required by a health practitioner to attend the health and medical service facility for review of his or her health or medical condition after being discharged from such health and medical service facility.

**PART 9 – GENERAL PATIENT CARE AND TREATMENT**

**57      Patients to provide contact information of another person**

- (1) A patient shall provide the contact information of another person to the health practitioner:
  - (a) in an emergency health care management situation;
  - (b) on admission;
  - (c) prior to surgery; or
  - (d) where the health practitioner deems it necessary.
- (2) The patient shall provide the information in subsection (1) prior to the commencement of any health care management procedure.

**58      Emergency care and treatment**

A health and medical service facility shall provide health and medical services to a person, who seeks such services in an emergency or attends to the Emergency Room Unit of a health and medical service facility.

**59      Out-patient**

- (1) The out-patient section of a health and medical service facility shall be open to the public within the prescribed days and time .
- (2) The out-patient section may open to the public on public holidays where the Director of Medical Services deems necessary.
- (3) Where a person attends to the out-patient section, a health and medical service facility shall maintain a register of all such persons.
- (4) The register shall contain:
  - (a) such person's name and national health number and where the person does not have a health number, to issue a national health number;

- (b) other details required of such patient under Part 6;
  - (c) prescription or medication given to such patient;
  - (d) consent of any treatment or testing obtained in writing in respect of such patient;
  - (e) record of health care management of such patient;
  - (f) the name of the health practitioner or staff attending to such patient; and
  - (g) such other information which the Director of Medical Services deems necessary.
- (5) Where it is necessary, the health practitioner shall require or fix appointments for such patient for follow up observation, diagnosis or treatment of the complaints of such patient.

## **60 Health care management on admission**

The Director of Medical Services or such other member of the staff shall within 24 hours of the admission of a patient:

- (a) record a medical history of the patient;
- (b) conduct a physical examination of the patient and record his or her findings;
- (c) make and record a provisional diagnosis of the patient's health or medical condition; and
- (d) make and record a proposed plan of health care management for the patient.

## **61 Refusal of health and medical services or treatment**

- (1) A patient may decline or refuse the provision of any general or specialised nature of health and medical services or treatment to be administered to him or her.
- (2) A health practitioner may not provide any health and medical services or treatment to a person under subsection (1), where he or she is satisfied that the patient has declined or refused to be provided with any health and medical services or treatment.
- (3) For the purposes of subsection (2), the health practitioner is deemed to be satisfied where:
  - (a) the decision made by the patient is made voluntarily;
  - (b) the patient has been informed of his or her health or medical condition and the need for the general or specialised nature of health and medical services or treatment by the health practitioner, other staff or any other means;

- (c) the decision is based on the patient's knowledge of the consequences of refusing such health and medical services or treatment including any special advice;
  - (d) the patient is of sound mind; and
  - (e) the patient is an adult.
- (4) The health practitioner shall record in writing the contents of his or her advice or information provided to the patient, including matters communicated to him or her by the patient for declining or refusing health and medical services or treatment.
  - (5) Where a health practitioner is of the opinion that the decision of the patient is not in the best interest of the patient, the health practitioner shall refer the matter to the Director of Medical Services.
  - (6) The Director of Medical Services may:
    - (a) accept the decision of the patient; or
    - (b) where the health or medical condition of the patient is life threatening, may cause future impairment or further health complications, seek an order of the court to administer the requisite health and medical services or treatment to the patient.
  - (7) In the case of a minor, the provisions of this Section apply in the same manner where a parent or guardian makes a decision to decline or refuse health and medical services or treatment.

## **PART 10 – E-HEALTH**

### **62 Providing health and medical services through e-health**

- (1) A health and medical service facility may provide health and medical services through e-health.
- (2) The Director of Medical Services may, in consultation with the Secretary, develop an online portal or platform for the provision of health and medical services.

### **63 Facilitation of e-health**

The Cabinet may on the recommendation of the Minister, prescribe the facilitation and establishment of the procedure for:

- (a) the provision of e-health;
- (b) the administration, maintenance and security of health records;
- (c) e-health health and medical services delivery;
- (d) digital applications in health care service;

- (e) collection and use of personal health information;
- (f) the protection of online patient information;
- (g) e-waste disposal; and
- (h) such other matters as may be necessary.

## **PART 11 – OVERSEAS MEDICAL REFERRALS**

### **64 Overseas medical referrals**

- (1) A health and medical service facility may make recommendation to the Committee for an overseas referral of:
  - (a) a patient of a health and medical service facility; or
  - (b) a patient referred to a health and medical service facility under Section 64, after consultation with the private health practitioner or private health service provider referred to under Section 64(1) or (2).
- (2) A health practitioner or health service provider may request a health and medical service facility to recommend a patient referred to a health and medical service facility under Section 64(1) or (2) to the Committee for an overseas medical referral.
- (3) Where a health and medical service facility declines to make a recommendation under subsection (2), the health and medical service facility shall give reasons for its decision to the health practitioner or health service provider.
- (4) Where a health and medical service facility declines to make a recommendation to the Committee under subsection (3), the health practitioner or health service provider may apply directly to the Committee giving reasons for an overseas medical referral.

### **65 Internal medical referrals**

- (1) A private health practitioner may make a referral of a patient to a health and medical service facility for health care management.
- (2) A private health service provider may make a referral of a patient to a health and medical service facility.
- (3) A private health practitioner or private health service provider shall not make any direct referral of a patient for assessment or treatment overseas without prior referral to a health and medical service facility and approval of the Committee.
- (4) A referral under this Section shall only be made to and received by:
  - (a) a health and medical service facility; and
  - (b) a health practitioner duly registered and has a current practising certificate under the *Health Practitioners Act 1999*.

**Conditions for overseas medical referral**

- (1) In considering an application for overseas medical referral, the Committee shall be satisfied that:
  - (a) the private health practitioner or public health service provider and the health and medical service facility have professionally assessed and treated the patient;
  - (b) the health practitioner or health service provider and the health and medical service facility, acting reasonably and prudently, are of the opinion that additional expertise or a differently resourced facility is required for the assessment or treatment of the health or medical condition of the patient in the Republic; or
  - (c) where the health and medical service facility has sought an opinion of an overseas medical specialist in the ordinary course of assessing or treating the condition of the patient, the opinion requires an overseas medical referral.
- (2) The Committee in making an overseas medical referral may set out the type and purpose of the referral.
- (3) The Committee's determination and deliberation for the overseas medical referral of a patient shall be based on the health information and clinical records or opinion of a specialist health practitioner provided under subsection (1)(c).
- (4) The Committee shall not make an overseas medical referral:
  - (a) where a patient who voluntarily or when ordered by the Supreme Court to undergo an assessment or treatment by a health practitioner, health service provider or health and medical service facility, refuses to do so;
  - (b) where a patient presents a report or referral by an overseas medical practitioner or a health practitioner not registered under the *Health Practitioners Act 1999*; or
  - (c) where the referral is prepared by a health practitioner or health service provider other than a public health service provider on the recommendation of a registered medical practitioner from outside the jurisdiction by telemedicine examination or diagnosis.
- (5) Where a private health practitioner or private health service provider requires the Committee to consider a medical opinion prepared by a registered medical practitioner from outside the jurisdiction, the Committee may consider the report.

**Particulars required for overseas medical referral**

- (1) A referral request by a health practitioner or health service provider under Section 63(2) shall be as prescribed.
- (2) The particulars required for overseas medical referral are:

- (a) a completed standard referral form shall accompany any patient being referred;
- (b) the standard referral form shall be completed and a copy kept by the referring health practitioner, health service provider or the health and medical service facility;
- (c) the standard referral form shall contain the following information:
  - (i) name;
  - (ii) date of birth;
  - (iii) gender;
  - (iv) address;
  - (v) clinical history and examination findings;
  - (vi) results of relevant investigations;
  - (vii) diagnosis and treatment given;
  - (viii) the name, address and telephone number of the referring facility and the facility being referred to;
  - (ix) the date and time of referral shall be indicated at all times; and
  - (x) a declaration by a health practitioner that he or she is professionally satisfied that the assessment or treatment of the condition of the patient for which referral is sought is not available in the Republic and the reasons for the unavailability of the assessment or treatment of the patient in the Republic.

## **68      Emergency referral**

- (1) Where an emergency referral is to be made for overseas treatment, the Chairperson of the Committee shall convene an urgent meeting of at least 3 members to make a recommendation for an urgent medical evacuation.
- (2) The referral form under Section 66 shall be completed by the health practitioner attending the patient requiring emergency referral.

## **69      Approval of Minister**

- (1) The recommendation of the Committee for overseas medical referrals shall be submitted to the Minister for approval.
- (2) The Minister shall approve the recommendation of the Committee unless the Minister has legitimate reason or cause to do otherwise.

## **70      Notification of decisions of Committee**

The Director of Medical Services shall inform the appropriate authorities and government departments in writing of the list of approved overseas medical referrals to enable medical evacuations.

**71 Health practitioners to keep a register of referrals**

- (1) A health practitioner, health service provider, health and medical service facility and the Committee shall each keep their respective register of all referrals made.
- (2) The register shall contain the following information:
  - (a) patient name, date of birth, gender;
  - (b) presenting complaints;
  - (c) clinical history and examination findings;
  - (d) results of relevant investigations;
  - (e) diagnosis and treatment given;
  - (f) specialty required;
  - (g) type of referral;
  - (h) overseas hospital; and
  - (i) health practitioner and family escort.

**72 Overseas Medical Referral Compliance Committee**

- (1) The Overseas Medical Referral Compliance Committee is established.
- (2) The Committee shall consist of:
  - (a) the Director of Medical Services;
  - (b) a specialist or designated health practitioner from the Public Health Division;
  - (c) the Chief Matron of the RON Hospital;
  - (d) a specialist health practitioner relevant to the nature of the health or medical condition of the patient;
  - (e) at least 3 specialist health practitioners from clinical disciplines other than that relating to the nature of the health or medical condition of the patient; and
  - (f) a private health practitioner if available or a health practitioner of a health service provider.

- (3) The composition of the Committee may be amended by Regulations by the Cabinet on the recommendation of the Minister.
- (4) Subject to Section 67, the quorum for a meeting of the Committee shall be 5 members.

### **73 Powers of the Committee**

The Committee has the power to do all things necessary or convenient to be done for the performance of its functions under this Act or any other written law.

## **PART 12 – SURGERY**

### **74 Examination by specialist health practitioner prior to surgery**

- (1) Where a patient is referred for surgery, a health practitioner who is assigned to perform the surgery may not perform the surgery without prior examination of such patient to enable the health practitioner to assess the nature of surgery or health care management.
- (2) Subject to subsection (1), where surgery requires more than local anaesthesia, a health practitioner shall not perform the surgery without the prior examination of such patient by an anaesthetist or in the absence of an anaesthetist, by an anaesthetist technician or any other appropriately trained health practitioner.
- (3) Where there is a difference in opinion between the health practitioner and anaesthetist in subsections (1) and (2) as to whether to proceed with surgery, the Director of Medical Services shall, upon consultation with both the health practitioner and anaesthetist, make the decision on whether the surgery is to be carried out.

### **75 Health practitioner to record surgery undertaken**

A health practitioner, who performs a surgery shall record in the patient's health information, a description of the surgical procedure and the findings or diagnosis resulting from the surgery with respect to the patient.

### **76 Post-operative care**

The health practitioner, who performs a surgery on a patient is responsible for directing the post-operative care of the patient until the responsibility for care of the patient is assumed by another health practitioner.

## **PART 13 – PAEDIATRIC SERVICES**

### **77 Paediatric services**

- (1) The Secretary shall, in consultation with the Director of Medical Services, ensure a health and medical service facility provides the following paediatric services:
  - (a) a baby clinic that includes immunisation and growth monitoring;

- (b) an out-patient ward;
  - (c) an in-patient ward;
  - (d) a neo-natal intensive care unit or special baby care unit;
  - (e) an adolescent and youth development programme; and
  - (f) such other prescribed paediatric services.
- (3) For the purposes of subsection (1), the Secretary shall, in consultation with the Director of Medical Services, develop such policies and guidelines which shall be published and be available to the public.

## **PART 14 – OPHTHALMOLOGY SERVICES**

### **78 Ophthalmology services**

- (1) The Secretary shall, in consultation with the Director of Medical Services, ensure a health and medical service facility provides the following ophthalmology services:
- (a) vision and sight assessment;
  - (b) assessment of visual impairment due to eyes or organ disorders; and
  - (c) such other prescribed or available ophthalmology services.
- (2) For the purposes of subsection (1), the Secretary shall, in consultation with the Director of Medical Services, develop such policies and guidelines which may be published and available to the public including making provision for health care management of eye disorders in the Republic or specialist services outside of the Republic within available resources.

## **PART 15 – PALLIATIVE CARE**

### **79 Palliative care**

- (1) The Secretary may, in consultation with the Director of Medical Services, make provisions for a health and medical service facility to provide palliative care.
- (2) For the purposes of subsection (1), the Secretary shall, in consultation with the Director of Medical Services, develop policies and guidelines which may be published and available to the public.
- (3) For the purposes of this Part, **‘palliative care’** means specialised medical care that aims to provide patients relief from pain and other symptoms of a serious illness no matter the diagnosis or stage of the disease.

## **PART 16 – MENTAL HEALTH SERVICES**

### **80 Mental health services**

- (1) The Secretary may, in consultation with the Director of Medical Services, make provisions for a health and medical service facility to provide mental health services.
- (2) The mental health services under this Part may be established as a separate section or unit of a health and medical service facility.

**81 Mental Health Services Section or Unit may provide accommodation**

- (1) The Mental Health Services Section or Unit may provide for the accommodation of persons who are suffering from or diagnosed as having mental impairment or incapacity that clinically requires such accommodation.
- (2) The establishment of and the provision of health and medical services by the Mental Health Services Sections Unit may be prescribed.

**PART 17 – PHARMACEUTICAL SERVICES**

**82 Establishment of a health and medical pharmaceutical services**

A health and medical service facility may establish a health and medical pharmacy and provide all such pharmaceutical services to the public.

**83 Compliance with pharmacy legislation**

A health and medical service facility pharmacy shall be subject to any written law regulating pharmaceutical practice or services.

**84 Complementary Medicine**

- (1) A health and medical service facility may dispense complementary medicine.
- (2) The practice of complementary medicine shall be subject to any written law regulating importation of such complementary medicine.

**PART 18 – VISITORS IN HEALTH AND MEDICAL SERVICE FACILITY**

**85 Visiting hours**

- (1) The Director of Medical Services may, in consultation with the Secretary, designate the visiting hours when a visitor may visit a patient at a health and medical service facility.
- (2) A person shall not enter a health and medical service facility or visit a patient at any time other than during the visiting hours designated under subsection (1).
- (3) A person who contravenes subsection (2) may be removed by a health practitioner, staff or security personnel from a health and medical service facility.

**86 Visits outside visiting hours**

The Director of Medical Services may permit visitation or family support of an in-patient at a time other than the designated visiting hours.

**87 Control of visits**

The Director of Medical Services may make such arrangements for the control of visits as he or she deems necessary in the interests of the welfare of the patients and the efficient management of a health and medical service facility.

**88 Prohibition of visits**

Notwithstanding Section 85, the Director of Medical Services may at any time, prohibit a visitor from entering a ward or visiting a patient during designated visiting hours.

**PART 19 –PREVENTION AND CONTROL OF INFECTION**

**89 Prevention and control of infection**

- (1) The Director of Medical Services shall, in consultation with the Secretary, establish or cause to be established a managed environment which minimises the risk of infections to patients, health practitioners, staff and visitors to a health and medical service facility.
- (2) For the purpose of subsection (1), a health and medical service facility shall:
  - (a) have a prevention and control of infection programme;
  - (b) have a designated prevention and control of infection structure with clear roles and responsibilities to implement the prevention and control of infection programme;
  - (c) maintain a formal surveillance and reporting system to identify and track nosocomial infection;
  - (d) maintain a formal surveillance and reporting system to identify and track antimicrobial resistance;
  - (e) train health care personnel and users on prevention and control of infection practices;
  - (f) have systems in place to:
    - (i) minimise the risk of transmission of nosocomial infection;
    - (ii) prevent and reduce the transmission of airborne infection; and
    - (iii) decontaminate medical devices; and
  - (g) have systems in place to keep the environment clean by:
    - (i) ensuring that cleaning personnel are trained to clean all areas of a health and medical service facility;

- (ii) implementing pest and rodent control measures in all areas of a health and medical service facility; and
- (iii) monitoring the performance of the cleaning services and take corrective measures where applicable.

**90      Director of Medical Services to provide for isolation of patient suffering from a significant contagious or infectious disease**

The Director of Medical Services shall cause or provide for the isolation in a health and medical service facility of a patient known or suspected to be suffering from a significant contagious or infectious disease.

**91      Health practitioner to isolate patient with significant contagious or infectious disease**

A health practitioner shall cause a patient to be isolated from other patients, where the health practitioner becomes aware or suspects that the patient may be infected with a significant contagious or infectious disease.

**PART 20 – CONTROL OF USE OF BLOOD, BLOOD PRODUCTS, TISSUE AND GAMETES**

**92      Prohibition of removal and transplant of human tissue**

A person is prohibited from removing tissue, blood, a blood product or gametes from another person for a purpose under Section 93(1), unless it is carried out:

- (a) with the written consent of the person from whom the tissue, blood, blood product or gametes are removed;
- (b) in the prescribed manner; and
- (c) in accordance with conditions which may be prescribed.

**93      Use of tissue, blood, blood products or gametes removed or withdrawn**

- (1) A person may only use tissue or gametes removed or blood or a blood product withdrawn from a person for such medical purposes which may be prescribed.
- (2) The following tissue, blood, blood products or gametes may not be removed or withdrawn from a living person for any purpose under subsection (1):
  - (a) tissue, blood, a blood product or a gamete from a person with mental incapacity or impairment;
  - (b) tissue which is not replaceable by natural processes from a minor;
  - (c) a gamete from a minor; or
  - (d) placenta, embryonic or foetal tissue, stem cells and umbilical cord.

**94      Removal, use or transplant of tissue and administering of blood or blood products**

- (1) A health practitioner may:
  - (a) remove tissue from a person;
  - (b) use tissue so removed; or
  - (c) transplant tissue so removed into another person.
- (2) A health practitioner or a person acting under the supervision or instructions of a health practitioner, may administer blood transfusion to any person.
- (3) For the purposes of this Section, any tissue, blood or blood products removed from a person shall be screened in the prescribed manner and confirmed to be safe prior to use.

**95 Disposal of tissue**

A health practitioner shall handle and dispose any tissue removed from a patient during a surgical procedure in the prescribed manner.

**96 Tissue removed from patient to be sent to pathologist**

- (1) The Director of Medical Services shall ensure that all tissues removed from a patient during a surgical operation or curettage carried out, together with adequate clinical data, are sent to a pathologist for examination and report.
- (2) In the absence of a pathologist at a health and medical service facility, the Director of Medical Services shall ensure that part or all of a biopsy, clinically significant or pathologically significant tissue removed from a patient during a surgical operation or curettage carried out, together with adequate clinical data, are sent to a pathologist or an appropriate diagnostic entity outside the Republic for examination and report.

**97 Exception to Sections 95 and 96**

Notwithstanding Sections 95 and 96, the Secretary may, with the advice of the Director of Medical Services, establish policies authorising the disposal of specified types of tissue without examination and report by a pathologist.

**98 Pathology examination and report**

- (1) Where tissue and clinical information are provided to a pathologist or diagnostic entity under Section 96, such pathologist or diagnostic entity shall conduct an examination of the tissue.
- (2) The pathologist or diagnostic entity under subsection (1) shall prepare or cause to be prepared a report in writing and sign a report of the findings.

**99 Distribution of pathology report**

The Director of Medical Services shall ensure that a copy of a report prepared by a pathologist or diagnostic entity under Section 98 is included in the health information of the patient and:

- (a) provided to the health practitioner who removed the tissue; or
- (b) provided to a health practitioner, who can make an informed decision on the findings.

## **PART 21 – DEATH OF PATIENT**

### **100 Handling of death by infectious or contagious disease**

Where a patient dies whilst being or suspected of being a case, carrier or contact of any infectious or contagious disease, the Secretary may:

- (a) require the corpse to be placed and sealed in a body bag and transferred directly from a health and medical service facility or place of death to a specified burial ground or crematorium; and
- (b) impose such conditions he or she deems necessary for the collection, removal and disposal of such corpse.

### **101 Death of patient in health and medical service facility**

Where a patient dies in a health and medical service facility, a health practitioner shall cause a copy of a death certificate to be completed in the health record of the patient and a copy provided for the purpose of the *Births, Deaths and Marriages Registration Act 2017*.

### **102 Post mortem**

- (1) A health practitioner may where necessary, in consultation with the Director of Medical Services, following the death of a patient, request that a post mortem be undertaken to determine the cause of death.
- (2) A deceased's next of kin may request the Director of Medical Services for a post mortem to be carried out to determine the cause of death.
- (3) Where a post mortem is carried out, the report of the pathologist shall form part of the record of the patient and where necessary, may be provided to such persons or authorities with the approval of the Director of Medical Services.
- (4) A health and medical service facility may collate such information or data as may be necessary for the purposes of investigation, research, prevention of diseases or for the benefit of the public.
- (5) Notwithstanding subsections (1) and (2), a post mortem may only be carried out if there are available facilities, equipment and trained personnel to carry out such post mortem in a timely manner.

## **PART 22 – MORTUARY SERVICES**

### **103 Mortuary services**

- (1) The Secretary shall, in consultation with the Director of Medical Services, ensure or cause to ensure that the body of a deceased person is preserved,

released and transported in the prescribed manner and in accordance with any other written law.

(2) For the purposes of subsection (1), the Secretary shall:

- (a) implement policies and procedures guiding all aspects of safe preparation, embalming, preservation, storage, infection control, release and transportation of body;
- (b) provide access to an area for the handling, storage, including temporary storage and viewing of body;
- (c) have protocols in place to allow the viewing of body of the deceased by the families and other authorities;
- (d) provide personal protective equipment for staff working with body of the deceased;
- (e) train staff working with body of the deceased on the safe storage, handling, transportation and release of the body; and
- (f) implement a control system, which monitors the movement and release of the body, including death notifications and the issuance of related documents.

**104 Body of deceased person brought to Republic from overseas**

- (1) Where a Nauruan dies overseas and the body is to be repatriated to the Republic, the Secretary shall authorise the provision of services at the mortuary for the storage and subsequent release of the body.
- (2) For the purposes of subsection (1), the deceased's next of kin shall be responsible for compliance with any prescribed requirements of the Republic and that of the foreign jurisdiction.

**105 Transportation of a deceased person from the Republic**

Where a person dies in the Republic, the Secretary shall authorise the preparation, embalming, preservation and transportation of the body to a foreign jurisdiction including complying with such requirements which may be prescribed.

**PART 23 – HEALTH CARE RISK WASTE**

**106 Health care risk waste**

- (1) The Secretary shall, in consultation with the Director of Medical Services and Director of Public Health, ensure or cause to ensure that health care risk waste is handled, stored and disposed of safely in accordance with this Act and any other written law.
- (2) For the purposes of subsection (1), the Secretary shall ensure a health and medical service facility:

- (a) has and implement an annual plan for dealing with risks based on a risk assessment conducted to identify hazardous waste at a health and medical service facility;
  - (b) has appropriate waste containers at the point of waste generation;
  - (c) implement procedures for the collection, handling, storage and disposal of health care risk waste;
  - (d) implement procedures for recording of waste removed or destruction;
  - (e) manage and safely dispose of sharps; and
  - (f) measure and evaluate the performance of the health care risk waste removal services and take corrective action where:
    - (i) health care personnel fail to adhere to the procedures for the collection, handling, separation, storage and disposal of health care risk waste; or
    - (ii) external service providers breach their contractual obligations.
- (3) In this Section:

**‘health care risk waste’** means medical waste such as infectious waste, sharps, anatomical waste, pathological waste, blood related waste, hazardous clinic waste, genotoxic and cytotoxic waste, pharmaceutical waste and radioactive waste, whether infectious or not, that poses a risk to the health and safety of patients, health care personnel and the public; and

**‘sharps’** means medical needles and other sharp medical instruments such as scalpels, blades, lancets, broken glass and vials.

## **PART 24 – COMPLAINTS AND GRIEVANCES**

### **107 Complaints and grievances procedure and form**

- (1) The Secretary shall ensure that a system for receiving and dealing with complaints and grievances is prescribed for health and medical service facilities concerning:
  - (a) the provision of any health and medical service;
  - (b) any issue of unethical or incompetent behaviour by a health practitioner or other member of the staff;
  - (c) any clinically significant incident that occurred during the course of the health care management of a patient;
  - (d) the standard, quality or effectiveness of any drug, pharmaceutical product or therapeutic product;
  - (e) the use or misuse of health information and information concerning patients and users of health care services; or

- (f) such other matters which may be of concern or related to health care services.
- (2) The Secretary shall:
  - (a) ensure that relevant complaints or grievances are referred to the Director of Medical Services and any other relevant section heads of a health and medical service facility; and
  - (b) take all such action as is necessary to investigate, address and resolve a complaint or grievance made under this Section.

**108      Circumstances where complaint or grievance not resolved**

- (1) Where a complaint or grievance made under Section 106 remains unresolved, the complainant may refer the complaint or grievance to the Chairperson of the Board.
- (2) The secretary to the Board shall cause an investigation into the complaint or grievance and prepare a report for consideration by the Board.
- (3) The Board shall acknowledge all complaints or grievances registered under subsection (1).
- (4) On consideration of the complaint or grievance and the report by the secretary, the Board shall:
  - (a) inform the Secretary of its outcome;
  - (b) inform the Director of Medical Services; and
  - (c) submit a report to the Minister.
- (5) Where the complaint or grievance relates to inadequate supply of medication, the Minister shall report the same to the Cabinet.

**PART 25 – HEALTH AND MEDICAL SERVICES FOR NON-RESIDENTS OF THE  
REPUBLIC AND USE OF HEALTH CARE FACILITY BY PRIVATE OR SPECIALISED  
HEALTH PRACTITIONER**

**109      Health and medical services for non-residents**

- (1) The Minister may, subject to any condition as he or she deems appropriate, permit a health and medical service facility to provide health and medical services to a non-resident of the Republic at such prescribed fees and costs as may be necessary.
- (2) The Secretary may, in consultation with the Director of Medical Services, permit or authorise a health practitioner to provide health and medical services to a non-resident of the Republic.

**110      Health and medical service facility used by private or specialised health practitioner**

- (1) Any consultation work undertaken by a private health practitioner employed in a health and medical service facility and fees paid shall be declared to the Republic.
- (2) Where a health and medical service facility has been used by a private or specialised health practitioner to carry out any practice, he or she shall charge and pay the said sum of prescribed fees or costs to a health and medical service facility.

## **PART 26 – ESTABLISHMENT OF MEDICAL TOURISM**

### **111 Medical tourism**

- (1) The Minister may approve the use of a health and medical service facility to provide such health care service, which may be necessary for the purposes of medical tourism.
- (2) The establishment of medical tourism shall not in any manner whatsoever impair or diminish the provision of health care services to the people of the Republic.

### **112 Health care services to be specified**

- (1) The Minister may, with the approval of the Cabinet, prescribe health and medical services which a health and medical service facility may provide as part of providing medical tourism in the Republic.
- (2) For the purposes of subsection (1), a health and medical service facility may engage the services of specialised health practitioners and establish such facilities as may be necessary.

### **113 Facilitation and procedure for medical tourism**

The Cabinet may on the recommendation of the Minister, prescribe the facilitating and establishing the procedure for:

- (a) travel to and from the Republic on a special purpose medical tourism visa;
- (b) e-health medical consultation;
- (c) accommodation and other support services for patients and accompanying persons or guardians;
- (d) the arrival and departure of medical evacuation aircraft;
- (e) professional fees and other charges; and
- (f) such other matters as may be necessary.

### **114 Utilisation of revenue from medical tourism**

The income derived from medical tourism shall be directed to the use and development of the public health system in the Republic.

## **PART 27 – AMBULANCE SERVICES**

### **115 Ambulance services**

A health and medical services facility shall provide ambulance services.

## **PART 28 – OFFENCES**

### **116 Absconding or leaving health and medical service facility without approval**

- (1) A person who is admitted to a health and medical service facility for health care management shall not leave the health and medical service facility unless he or she:
  - (a) has the authority of a health practitioner;
  - (b) has been discharged from the health and medical service facility; or
  - (c) is required to leave a health and medical service facility for further health care management in any other health care facility.
- (2) A person who contravenes subsection (1) commits an offence and upon conviction is liable to a fine not exceeding \$1,000 or a term of imprisonment not exceeding 12 months or to both.
- (3) Where a person fails to comply with subsection (1), a police officer on the advice of a health practitioner may arrest the patient without a warrant and return such patient to a health and medical service facility for health care management purposes.

### **117 Absconding or leaving special or designated ward without approval**

- (1) A person who is admitted to a special or designated ward for health care management shall not abscond or leave the special or designated ward unless he or she:
  - (a) has the authority of a health practitioner;
  - (b) has been discharged from a special or designated ward; or
  - (c) is required to leave a special or designated ward for further health care management in any other ward.
- (2) A person who contravenes subsection (1) commits an offence and upon conviction is liable to a fine not exceeding \$1,000 or a term of imprisonment not exceeding 12 months or to both.
- (3) Where a person fails to comply with subsection (1), a police officer on the advice of a health practitioner may arrest the patient without a warrant and return such patient to a special or designated ward for health care management purposes.

**118 Aiding, abetting or harbouring a patient**

- (1) A person who aids, abets or harbours a patient who has contravened Sections 116 and 117 commits an offence and upon conviction is liable to a fine not exceeding \$1,000 or term of imprisonment not exceeding 12 months or to both.
- (2) It is not a defence to the offence of harbouring a patient, where the alleged offender fails to inform a health and medical service facility that the patient is with him or her or in his or her care.

**119 Spreading significant contagious or infectious disease**

- (1) A person who suffers from a significant contagious or infectious disease shall not intentionally go to a public place or come into contact with other persons.
- (2) A person who contravenes subsection (1) commits an offence and upon conviction is liable to life imprisonment.

**120 Trespassing in health and medical service facility**

- (1) A person commits an offence of trespass to property where he or she remains in a health and medical service facility without any reason or cause and includes a person who has been discharged from a health and medical service facility.
- (2) A person who contravenes subsection (1) commits an offence and upon conviction is liable to a fine not exceeding \$2,000 or term of imprisonment not exceeding 12 months or to both.

**121 Offence relating to handling of body of person who died from infectious or contagious disease**

A person who contravenes an action of the Secretary made under Section 100 commits an offence and upon conviction is liable to a fine not exceeding \$1,000 or term of imprisonment not exceeding 12 months or to both.

**122 Offences relating to tampering with health information**

- (1) A person shall not:
  - (a) falsify any health information by adding to, deleting or changing information in the record;
  - (b) create, change or destroy a health information without the authority or necessary approval to do so;
  - (c) make a copy, store or save a copy of a health information in any digital or electronic form, or remove any health information or in its physical, digital or electronic form from a health facility; or
  - (d) disclose any health information or without the authority or necessary approval to do so.

- (2) A person who contravenes subsection (1) commits an offence and upon conviction is liable to a fine not exceeding \$20,000 or term of imprisonment not exceeding 5 years or to both.

**123 Offences relating to health practitioners**

- (1) A person shall not:
- (a) obstruct, threaten or intimidate a health practitioner in the performance of his or her duties;
  - (b) by words or conduct falsely represents that he or she is a health practitioner or who otherwise impersonates a health practitioner; or
  - (c) provide false or misleading information to a health practitioner.
- (2) A person who contravenes subsection (1) commits an offence and upon conviction is liable to a term of imprisonment not exceeding 3 years.

**124 Prohibition on termination of pregnancy**

- (1) A health practitioner shall not terminate a pregnancy unless such termination is necessary for the preservation of the life of the female carrying the unborn child.
- (2) For the purpose of subsection (1), the Director of Medical Services shall consult the Secretary where, based on medical evidence, the life of the female carrying the unborn child is gravely threatened.
- (3) A health practitioner or any other person who terminates a pregnancy for a reason other than under subsection (1) commits an offence and upon conviction is liable to a term of imprisonment not exceeding 5 years.

**PART 29 – PROVISION OR MANAGEMENT OF HEALTH AND MEDICAL SERVICES THROUGH A PRIVATE ENTITY**

**125 Cabinet may engage a private entity to provide or manage health and medical services**

- (1) The Cabinet may through an agreement, arrangement or understanding engage a private entity to provide or manage health and medical services in the Republic.
- (2) Where the Cabinet enters into an agreement, arrangement or understanding under subsection (1), the following considerations are to be undertaken:
- (a) provide respective criteria and procedure for such engagement;
  - (b) the private entity shall ensure that public servants employed in the health and medical services are not made redundant without approval of the Government;

- (c) any public servant who may or is likely to be made redundant due to the engagement of the private entity, the Government shall provide alternative employment to such public servants within the public service or pay a redundancy amount;
  - (d) any public servant who intends to resign from public service to join the private entity, shall be permitted to do so by the Government;
  - (e) the assets and buildings of the health and medical services may be used by the private entity without any additional fee or charge and upon completion of the engagement, the private entity shall ensure that all such assets and buildings are returned to the Government in good and working condition;
  - (f) the private entity is permitted to engage additional health service providers on the terms and conditions it may deem just and appropriate;
  - (g) the private entity shall not increase or vary the salary of any public servants to which it may become liable to pay without prior approval of the Secretary;
  - (h) the private entity shall comply with the requirements of this Act or any other written law for the purpose of providing health and medical services;
  - (i) the private entity shall report on the performance of the services to the Secretary who shall keep the Minister and the Cabinet informed of such services; and
  - (j) the private entity shall not charge any person living in Nauru for the provision of health and medical services without the prior approval of the Cabinet.
- (3) An agreement, arrangement or understanding between the Republic and a private entity shall not be arbitrarily altered or suspended by any other person except by the Cabinet.

**126 Functions of the Secretary and other staff where health and medical services are carried out by a private entity**

- (1) Where the health and medical services are to be provided or managed under an agreement, arrangement or understanding by a private entity:
  - (a) the Secretary and the Secretary for Public Health shall both continue to undertake their functions under this Act except that such functions are limited to supervision and monitoring; and
  - (b) the supervisory or regulatory body may include other senior health professionals or administrative support staff of the Department and Department of Public Health.

- (2) The private entity shall take instructions for the provision of health and medical services from the Secretary and the Secretary for Public Health and any other staff who are appointed under subsection (1).

## **PART 30 – MISCELLANEOUS**

### **127 Health Standards**

- (1) The Secretary may by Notice published in the Gazette, determine health standards that provide requirements for administrative, clinical and operating procedures.
- (2) A health standard may deal with any matter intended to maintain or improve health and medical services in the Republic including:
- (a) behaviour of persons, including visitors at a health care facility;
  - (b) admission and general care of patients;
  - (c) delivery of specific health and medical services;
  - (d) infection prevention and control in health care facilities;
  - (e) control and use of tissue, blood, blood products or gametes;
  - (f) management of human remains;
  - (g) mortuary services;
  - (h) management of health care facility waste;
  - (i) delivery and use of complementary medicines; or
  - (j) any other area deemed necessary by the Secretary.

### **128 Registration of a newborn baby**

Where a baby is born in a health and medical service facility, the Director of Medical Services shall notify the Registrar of Births Deaths and Marriages of the birth within 7 days of such birth.

### **129 Fees for provision of health and medical services**

- (1) Subject to subsection (2), the provision of health care services and supply of medicine under this Act shall be a public expense.
- (2) The Cabinet may make regulations prescribing fees and charges for the purposes of this Act.

### **130 Procurement of health products and technologies**

- (1) Notwithstanding the provisions of the *Public Finance (Control and Management) Act 1997*, the Secretary shall, in consultation with the Director

of Medical Services, be responsible for the procurement and supply chain management of health and medical service products and technologies including medicines, vaccines, pharmaceutical and non-pharmaceuticals.

- (2) The Secretary shall keep or cause to keep accurate records of all procurement for the health and medical service facilities.

### **131 Exclusion or limitation of liability of health and medical service facility and staff**

- (1) A health and medical service facility or a health practitioner responsible for or engaged by the Director for Medical Services for the health care management of a patient, incurs no civil or criminal liability for an act or omission done or made:
  - (a) with the consent of the patient or person referred to in Section 41;
  - (b) without consent but in accordance with an authority conferred by this Act or any other written law;
  - (c) in good faith;
  - (d) in accordance with the professional standards of medical practice expected of a reasonable health practitioner; and
  - (e) in order to preserve or improve the quality of health.
- (2) A health and medical service facility shall not be vicariously liable:
  - (a) where there is no liability under subsection (1), for a member of staff of that health and medical service facility; or
  - (b) for the acts or omissions of a member of staff acting outside his or her course of employment.
- (3) This Section applies to a health practitioner, where a health practitioner is not ordinarily employed by a health and medical service facility, for the purposes of health care management of a patient.

### **132 Protection from liability**

The Minister, Secretary, Director of Medical Services, Director of Nursing, Policy and Standards, Department, Board, Committee or staff shall not be liable for any act done or omitted to be done in good faith in the performance of a function or exercise of a power under this Act or any other written law in furthering the objectives of this Act.

### **133 Regulations**

- (1) The Cabinet may make regulations to prescribe matters that are required or permitted by this Act to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to this Act and generally for achieving the purposes of this Act.

- (2) Without limiting subsection (1), the Cabinet may make regulations to provide for:
- (a) the arrangement and management of health and medical services including the admission, discharge and treatment arrangements for patients;
  - (b) in relation to health information:
    - (i) the records respecting patients to be maintained by staff at a hospital including health information, orders for treatment, nursing notes, charts, record sheets, x-rays and other diagnostic tests and records made by the staff of a hospital;
    - (ii) the preparation, maintenance, storage, retention, removal and destruction of records;
    - (iii) the confidentiality, release, inspection and disclosure of records; and
    - (iv) information management and procedures;
  - (c) the disposal of human tissues, whether removed during an operation, autopsy or otherwise;
  - (d) the privileges of health practitioners;
  - (e) the admission of visitors;
  - (f) the powers and duties of staff;
  - (g) the provision of quality control and user complaints systems;
  - (h) the qualifications for the classes of health practitioners;
  - (i) the standards of health practice;
  - (j) the standards of professional competence and conduct of health practitioners;
  - (k) the rules of professional conduct for health practitioners;
  - (l) the disposal of medical waste;
  - (m) the amendment of the Schedule;
  - (n) any forms that are required under this Act; and
  - (o) fees and charges for the purposes of this Act.

#### **PART 31 – SAVINGS AND TRANSITIONAL PROVISIONS**

The following are repealed:

- (a) *Health Practitioners (Overseas Medical Referrals Compliance) Regulations 2019*; and
- (b) *Health Practitioners (Telemedicine Prohibition) Regulations 2019*.

**135 Savings and transitional provisions**

- (1) Any person employed by a health and medical service immediately prior to the commencement of this Act shall continue to be employed by such health and medical service facility until:
  - (a) the expiration of his or her term of employment; or
  - (b) he or she is terminated in accordance with his or her contract of service, whichever is earlier.
- (2) An act, decision, undertaking, contract, rule, entered into or made under the provisions of the repealed Regulations, shall be deemed to have been made under this Act and shall remain valid unless it is varied, suspended or revoked under this Act.
- (3) An entity or person providing health and medical services at the commencement of this Act shall be deemed to be providing services under this Act and shall be subject to the requirements of this Act.

## **SCHEDULE**

*[Section 5(2)]*

### **Declared health and medical service facilities**

For the purpose of Section 5(2), the following are declared as health and medical service facilities:

- (a) RON Hospital.