

1995—No. 95

**PRIVATE HOSPITALS AND DAY PROCEDURE CENTRES
ACT 1988—REGULATION**

(Relating to the disclosure of certain pecuniary interests in private hospitals and day procedure centres)

NEW SOUTH WALES



[Published in Gazette No. 23 of 3 March 1995]

HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Private Hospitals and Day Procedure Centres Act 1988, has been pleased to make the Regulation set forth hereunder.

Ron Phillips
Minister for Health.

Commencement

1. This Regulation commences on 31 March 1995.

Amendment of Day Procedure Centres

2. The Day Procedure Centres Regulation 1990 is amended by inserting after clause 18 the following Part:

PART 4—DISCLOSURE OF PECUNIARY INTERESTS

Pecuniary interest

19. (1) For the purposes of this Part, “pecuniary interest in a day procedure centre” means any one or more of the following interests:

Pecuniary interest in the license to conduct the day procedure centre

- An interest as the holder of the licence to conduct the day procedure centre, or as one of the holders of such a licence.
- A relevant interest in any corporation (other than a public company) which is the licensee of the day procedure centre.

- A holding of 20 per cent or more of the issued share capital of a public company which is the licensee of the day procedure centre.

Pecuniary interest in the premises at which the day procedure centre is conducted

- An interest (whether at law or in equity) in the premises at which the day procedure centre is conducted.
- A relevant interest in any corporation (other than a public company) which has any interest (whether at law or in equity) in the premises at which the day procedure centre is conducted.
- A holding of 20 per cent or more of the issued share capital of any public company which has any interest (whether at law or in equity) in the premises at which the day procedure centre is conducted.

Pecuniary interest in the services provided to the day procedure centre

- An interest in any clinical or administrative services provided to the day procedure centre (other than an interest being fees from medical or dental services provided by the person to any patient in the day procedure centre).
- A relevant interest in any corporation (other than a public company) which has an interest in any clinical or administrative services provided to the day procedure centre.
- A holding of 20 per cent or more of the issued share capital of any public company which has an interest in any clinical or administrative services provided to the day procedure centre.

(2) In this clause, “relevant interest” has the same meaning as in Division 5 of Part 1.2 of the Corporations Law.

Manner of notification—admissions

20. For the purposes of section 46 (1) of the Act, the manner in which a practitioner is to notify a person of the practitioner’s pecuniary interest¹ before the practitioner advises the person to be admitted to a day procedure centre or arranges the admission of the person to a day procedure centre is:

- (a) by an oral statement made by the practitioner to the person; or
- (b) by a written statement given by the practitioner to the person; or
- (c) if the person is at the day procedure centre at the time when the advice is given or the admission is arranged—by a notice displayed at the day procedure centre; or

- (d) if the person is at any surgery or other premises of the practitioner at the time when the advice is given or the admission is arranged—by a notice displayed at that surgery or on those premises.

Manner of notification—treatment

21. For the purposes of section 46 (1) of the Act, the manner in which a practitioner is to notify a patient of the practitioner's pecuniary interest before the practitioner provides medical, surgical or other treatment to, or arranges the provision of any such treatment to, a patient in the day procedure centre is:

- (a) by an oral statement made by the practitioner to the patient; or
- (b) by a written statement given by the practitioner to the patient; or
- (c) by a notice displayed at the day procedure centre; or
- (d) if the patient is at any surgery or other premises of the practitioner at the time when the treatment is arranged—by a notice displayed at that surgery or on those premises.

Details of pecuniary interest

22. A notification of a pecuniary interest required by this Part must specify the practitioner to which it relates and must identify the nature and extent of the pecuniary interest.

Display of notices

23. (1) A notice displayed under this Part must have a surface area of not less than 2,500 square centimetres. The information on that notice must be printed in plain, bold letters at least 1 centimetre high on a contrasting background.

(2) A notice displayed at a day procedure centre must be displayed in a prominent place in the waiting room or in every room in which the practitioner to whom the notice relates attends to patients or other persons.

(3) A notice displayed at a surgery or other premises of the practitioner to whom it relates must be displayed in a prominent place.

Pecuniary interest

24. For the purposes of section 46 (4) of the Act, a practitioner has a pecuniary interest in a day procedure centre if the practitioner has a pecuniary interest within the meaning of this Part.

Pecuniary interests of relatives of practitioners

25. For the purposes of section 46 (5) of the Act, a pecuniary interest in a day procedure centre of a relative of a practitioner is a pecuniary interest of the practitioner. For this purpose, “relative of a practitioner” means the spouse, de facto partner, parent, child, brother or sister of the practitioner.

Amendment of Private Hospitals Regulation 1990

3. The Private Hospitals Regulation 1990 is amended by inserting after clause 19 the following Part:

PART 4—DISCLOSURE OF PECUNIARY INTERESTS**Pecuniary interest**

20. (1) For the purposes of this Part, “pecuniary interest in a private hospital” means any one or more of the following interests:

Pecuniary interest in the licence to conduct the private hospital

- An interest as the holder of the licence to conduct the private hospital, or as one of the holders of such a licence.
- A relevant interest in any corporation (other than a public company) which is the licensee of the private hospital.
- A holding of 20 per cent or more of the issued share capital of a public company which is the licensee of the private hospital.

Pecuniary interest in the premises on which the private hospital is conducted

- An interest (whether at law or in equity) in the premises at which the private hospital is conducted.
- A relevant interest in any corporation (other than a public company) which has any interest (whether at law or in equity) in the premises at which the private hospital is conducted.
- A holding of 20 per cent or more of the issued share capital of any public company which has any interest (whether at law or in equity) in the premises at which the private hospital is conducted.

Pecuniary interest in the services provided to the private hospital

- An interest in any clinical or administrative services provided to the private hospital (other than an interest being fees from medical or dental services provided by the person to any patient in the private hospital).
- A relevant interest in any corporation (other than a public company) which has an interest in any clinical or administrative services provided to the private hospital.

- A holding of 20 per cent or more of the issued share capital of any public company which has an interest in any clinical or administrative services provided to the private hospital.

(2) In this clause, “**relevant interest**” has the same meaning as in Division 5 of Part 1.2 of the Corporations Law.

Manner of notification—admissions

21. For the purposes of section 46 (1) of the Act, the manner in which a practitioner is to notify a person of the practitioner’s pecuniary interest before the practitioner advises the person to be admitted to a private hospital or arranges the admission of the person to a private hospital is:

- (a) by an oral statement made by the Practitioner to the person; or
- (b) by a written statement given by the practitioner to the person; or
- (c) if the person is at the private hospital at the time when the advice is given or the admission is arranged—by a notice displayed at the private hospital; or
- (d) if the person is at any surgery or other premises of the practitioner at the time when the advice is given or the admission is arranged—by a notice displayed at that surgery or on those premises.

Manner of notification—treatment

22. For the purposes of section 46 (1) of the Act, the manner in which a practitioner is to notify a patient of the practitioner’s pecuniary interest before the practitioner provides medical, surgical or other treatment to, or arranges the provision of any such treatment to, any patient in the private hospital is:

- (a) by an oral statement made by the practitioner to the patient; or
- (b) by a written statement given by the practitioner to the patient; or
- (c) by a notice displayed at the private hospital; or
- (d) if the patient is at any surgery or other premises of the practitioner at the time when the treatment is arranged—by a notice displayed at that surgery or on those premises.

Details of pecuniary interest

23. A notification of a pecuniary interest required by this Part must specify the practitioner to which it relates and must identify the nature and extent of the pecuniary interest.

Display of notices

24. (1) A notice displayed under this Part must have a surface area of not less than 2,500 square centimetres. The information on that notice must be printed in plain, bold letters at least 1 centimetre high on a contrasting background.

(2) A notice displayed at a private hospital must be displayed in a prominent place in the waiting room or in every room in which the practitioner to whom the notice relates attends to patients or other persons.

(3) A notice displayed at a surgery or other premises of the practitioner to whom it relates must be displayed in a prominent place.

Pecuniary interest

25. For the purposes of section 46 (4) of the Act, a practitioner has a pecuniary interest in a private hospital if the practitioner has a pecuniary interest within the meaning of this Part.

Pecuniary interests of relatives of practitioners

26. For the purposes of section 46 (5) of the Act, a pecuniary interest in a private hospital of a relative of a practitioner is a pecuniary interest of the practitioner. For this purpose, “**relative of a practitioner**” means the spouse, de facto partner, parent, child, brother or sister of the practitioner.

EXPLANATORY NOTE

Section 46 of the Private Hospitals and Day Procedure Centres Act 1988 provides for the disclosure of pecuniary interests to patients and certain other persons. The section requires a practitioner who has a pecuniary interest in a day procedure centre or private hospital (an “establishment”) to notify a person of that interest before the practitioner advises the person to be admitted to the establishment, arranges the admission of a person to the establishment or provides medical, surgical or other treatment to, or arranges the provision of any such treatment to, any patient in the establishment.

Section 46 empowers the Governor to make regulations relating to the disclosure of pecuniary interests to patients and other persons, including regulations relating to:

- (a) the manner of notification of the pecuniary interest (being a choice from the list specified in section 46 (2)); and
- (b) the interests which constitute pecuniary interests; and

1995—No. 95

(c) the interests of a relative of a practitioner which are to be taken to be the pecuniary interests of the practitioner.

The object of this Regulation is to exercise those powers so as to make section 46 operational.

The Regulation is made under section 46 and section 55 (the general regulation-making power) of the Private Hospitals and Day Procedure Centres Act 1988.
