



New South Wales

Private Health Facilities Regulation 2024

under the

Private Health Facilities Act 2007

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following regulation under the *Private Health Facilities Act 2007*.

RYAN PARK, MP
Minister for Health

Explanatory note

The object of this regulation is to repeal and remake, with some changes, the *Private Health Facilities Regulation 2017*, which would otherwise be repealed on 1 September 2024 by the *Subordinate Legislation Act 1989*, section 10(2).

This regulation makes provision about the following—

- (a) classes of private health facilities and the licensing standards that apply to them,
- (b) fees for an application for a private health facility licence and for other purposes,
- (c) the conduct of private health facilities,
- (d) responding to incidents at private health facilities,
- (e) other miscellaneous matters, including—
 - (i) the disclosure of pecuniary interests in private health facilities, and
 - (ii) the display of private health facility licences.

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Private Health Facilities Regulation 2024

under the

Private Health Facilities Act 2007

Part 1 Preliminary

1 Name of regulation

This regulation is the *Private Health Facilities Regulation 2024*.

2 Commencement

This regulation commences on the day on which it is published on the NSW legislation website.

Note— This regulation repeals and replaces the *Private Health Facilities Regulation 2017*, which would otherwise be repealed on 1 September 2024 by the *Subordinate Legislation Act 1989*, section 10(2).

3 Definitions

The dictionary in Schedule 5 defines words used in this regulation.

Note— The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this regulation.

4 Definition of “private health facility”

For the Act, section 4(1), definition of *private health facility*, the following services or treatments are prescribed, regardless of whether the person provided with the service or treatment is admitted to a facility—

- (a) anaesthesia,
- (b) cardiac catheterisation,
- (c) chemotherapy,
- (d) cosmetic surgery,
- (e) gastrointestinal endoscopy,
- (f) interventional neuroradiology,
- (g) psychedelic-assisted therapy,
- (h) radiotherapy,
- (i) rapid opioid detoxification,
- (j) renal dialysis,
- (k) services or treatments relating to the care of patients injured in accidents, or those suffering from medical or other emergencies, through the provision of the following—
 - (i) reception,
 - (ii) resuscitation,
 - (iii) medical and surgical treatment,

- (iv) life support systems,
- (l) surgical procedures, other than dental procedures, performed on patients who are administered the following—
 - (i) general anaesthetic,
 - (ii) epidural anaesthetic,
 - (iii) major regional anaesthetic,
 - (iv) sedation resulting in deeper than conscious sedation.

Part 2 Licensing of private health facilities

Division 1 Classes of private health facilities

5 Classes of private health facilities—the Act, s 10(1)

Schedule 1 prescribes the classes of private health facilities.

6 Licensing standards—the Act, ss 5 and 65(3)

- (1) Schedule 2 prescribes licensing standards that apply to all private health facilities.
- (2) Schedule 3 prescribes licensing standards that apply to specified classes of private health facilities.
- (3) The licensee of a private health facility must ensure the facility is conducted in accordance with the licensing standards that apply to the facility.
Maximum penalty—5 penalty units.
- (4) A licensee is not guilty of an offence under subsection (3) if the licensee—
 - (a) was not aware of the circumstances giving rise to the alleged offence, and
 - (b) could not reasonably be expected to have been aware of the circumstances.

Division 2 Fees

7 Application for licence—the Act, s 6

- (1) For the Act, section 6(2)(f), the prescribed fee is \$7,931.
- (2) For the Act, section 6(2)(f), the following particulars and documents are prescribed—
 - (a) for a private health facility operated by a corporation, other than a church or religious organisation—the extract of particulars, within the meaning of the *Corporations Act 2001* of the Commonwealth, for the current year,
 - (b) for a private health facility operated by a church or religious organisation—
 - (i) a certificate of incorporation for the organisation, or
 - (ii) if the church or organisation is incorporated by an Act—a copy of that Act.

8 Request for extension of approval in principle—the Act, s 8

For the Act, section 8(4), the prescribed fee is \$4,041.

9 Annual licence fees—the Act, s 14

For the Act, section 14(1), the prescribed fee is—

- (a) for private health facilities of any class that provide for the accommodation of patients admitted for more than 24 hours—the fee determined in accordance with the table to this section, or
- (b) for other private health facilities—\$7,065.

Maximum number of patients facility is licensed to accommodate	Fee
Fewer than 51	\$7,065
51–75	\$8,783
76–100	\$10,501

Maximum number of patients facility is licensed to accommodate	Fee
101–150	\$13,938
151–200	\$15,656
More than 200	\$17,374

10 Transfer of licence—the Act, s 15

For the Act, section 15(3)(b), the prescribed fee is \$4,660.

11 Alterations or extensions to private health facilities—the Act, s 16

For the Act, section 16(2)(b), the prescribed fee is \$4,660.

12 Amendment of licence—the Act, s 17

For the Act, section 17(2)(e), the prescribed fee is \$4,660.

13 Application for review of Secretary’s decision—the Act, s 24

For the Act, section 24(2)(b), the prescribed fee \$4,660.

Part 3 Conduct of private health facilities

14 Restriction on where cosmetic surgery may be performed—the Act, s 33A

Cosmetic surgery must not be performed at a private health facility unless the private health facility is a cosmetic surgery class private health facility.

15 Qualifications for director of nursing of facility—the Act, s 37

For the Act, section 37(2), the minimum necessary qualifications are—

- (a) 5 years of post-basic or post-graduate nursing experience, and
- (b) 1 year of administrative experience in a position equivalent to, or more senior than, nursing unit manager in a private health facility or public hospital.

16 Register of patients—the Act, s 38

For the Act, section 38(4), a staff member of a private health facility must enter the following particulars in the register of patients—

- (a) for particulars relating to a patient received at the facility—when the patient is admitted to the facility,
- (b) for particulars relating to a patient separated from the facility—when the patient ceases to be a patient of the facility.

17 Medical advisory committee—the Act, s 39

- (1) For the Act, section 39(1), the licensee of a private health facility must appoint to the medical advisory committee for the facility at least 1 medical practitioner who does not have a pecuniary interest in the facility.
- (2) In this section—
pecuniary interest in a private health facility means an interest referred to in section 23(1).

Part 4 Response to incidents

18 Reportable incident—the Act, ss 41 and 49H

- (1) For the Act, section 41, definition of *reportable incident*, a reportable incident means an incident of a type set out in Appendix D of the *Incident Management Policy* published in Government Gazette No 292 of 30 October 2020.
- (2) If a reportable incident occurs in a private health facility, the licensee must notify the Secretary of the incident no later than 2 business days after the day of the incident.
- (3) A serious adverse event review team appointed under the Act, section 46 must provide an incident report in accordance with the Act, section 47 no later than 70 days after the day of the incident.

19 Serious adverse event review—the Act, s 41

For the Act, section 41, definition of *serious adverse event review*, the following types of review are prescribed—

- (a) NSW Health Concise Incident Analysis set out in Appendix E of the *Incident Management Policy* published in Government Gazette No 292 of 30 October 2020,
- (b) NSW Health Comprehensive Incident Analysis set out in Appendix F of the *Incident Management Policy* published in Government Gazette No 292 of 30 October 2020,
- (c) *Systems Analysis of Clinical Incidents: The London Protocol* published in August 2004 by Imperial College London.

20 Disclosure of assessor advice—the Act, s 45

For the Act, section 45(1)(e), a licensee may disclose advice or information—

- (a) to obtain legal advice, or
- (b) to obtain legal representation, or
- (c) to notify an insurer of an incident and to provide information in relation to an insurance claim.

21 Disclosure of information by incident reviewers—the Act, s 49D

- (1) For the Act, section 49D(d), the information may be divulged or communicated to a committee for the purposes of research or an investigation that the committee is authorised to conduct under the *Health Administration Act 1982*, section 23(1).

- (2) In this section—

committee means a council, committee or advisory body appointed under the *Health Administration Act 1982*, section 20 and includes the following—

- (a) the Special Committee Investigating Deaths Under Anaesthesia (SCIDUA),
- (b) the Collaborating Hospitals Audit of Surgical Mortality (CHASM),
- (c) the NSW Maternal and Perinatal Mortality Review Committee.

22 Notification of incidents and exchange of information—the Act, s 49H(g) and (h)

A licensee of a private health facility (the *original licensee*) may notify an incident to, or exchange information with, another licensee, or a relevant health services organisation, if, in the opinion of the original licensee, the notification or exchange of information may assist—

- (a) the other licensee to exercise a function under the Act, Part 4, or

- (b) the relevant health services organisation to exercise a function under the *Health Administration Act 1982*, Part 2A.

Part 5 Miscellaneous

23 Pecuniary interests in private health facilities—the Act, s 58

- (1) For the Act, section 58(4), the following interests are prescribed as pecuniary interests in a private health facility—
 - (a) an interest as a holder of the licence to conduct the facility,
 - (b) an interest in a corporation, other than a public company, that is the licensee of the facility,
 - (c) a holding of 5% or more of the issued share capital of a public company that is the licensee of the facility,
 - (d) a legal or equitable interest in the premises at which the facility is conducted,
 - (e) an interest in a corporation, other than a public company, that has a legal or equitable interest in the premises,
 - (f) a holding of 5% or more of the issued share capital of a public company that has a legal or equitable interest in the premises,
 - (g) an interest in clinical or administrative services provided to the facility, other than an interest in fees from medical or dental services provided to patients of the facility,
 - (h) an interest in a corporation, other than a public company, that has an interest in clinical or administrative services provided to the facility,
 - (i) a holding of 5% or more of the issued share capital of a public company that has an interest in clinical or administrative services provided to the facility.
- (2) For the Act, section 58(5), a practitioner has a pecuniary interest in a private health facility if a relative of the practitioner has an interest of a kind referred to in subsection (1) in relation to the facility.
- (3) In this section—
relative, of a practitioner, means a spouse, de facto partner, parent, child or sibling of the practitioner.

24 Notification of pecuniary interests—the Act, s 58

- (1) For the Act, section 58(2), a practitioner who is required to notify a person of the practitioner's pecuniary interest in a private health facility must notify the person of the interest—
 - (a) by a statement made by the practitioner to the person, and
 - (b) by written notice given by the practitioner to the person, and
 - (c) by a notice displayed at the private health facility, and
 - (d) by a notice displayed in each office or other professional premises of the practitioner.
- (2) The statement or notice must—
 - (a) include the full name of the practitioner to whom the notice relates, and
 - (b) identify the private health facility in which the practitioner has a pecuniary interest, and
 - (c) specify the nature and extent of the interest.
- (3) A notice referred to in subsection (1)(c) or (d) must—
 - (a) be at least 2,500cm², and
 - (b) contain text in plain, bold characters that are—

- (i) at least 1cm high, and
- (ii) of a colour that contrasts with the colour of the notice's background, and
- (c) for a notice referred to in subsection (1)(c)—be displayed conspicuously in—
 - (i) the waiting room, or
 - (ii) every room where the practitioner to whom the notice relates attends to patients or other persons, and
- (d) for a notice referred to in subsection (1)(d)—be displayed conspicuously.

25 Display of licence—the Act, s 65(2)(a) and (3)

The licensee of a private health facility must ensure at least 1 of the following is displayed conspicuously in the entrance foyer of the facility while the facility is conducted—

- (a) the facility's licence,
- (b) the front page of the facility's licence,
- (c) a full-sized copy of the facility's licence.

Maximum penalty—5 penalty units.

26 Notifying Secretary of council orders—the Act, s 65(2)(d) and (3)

- (1) This section applies if an order is made in relation to the premises of a private health facility under either of the following—
 - (a) the *Environmental Planning and Assessment Act 1979*, section 9.34,
 - (b) the *Local Government Act 1993*, section 124.
- (2) The licensee of the private health facility must, as soon as practicable after being made aware of the making of the order, ensure the Secretary is notified of the making of the order.

Maximum penalty for subsection (2)—5 penalty units.

27 Information to be provided by licensees—the Act, s 65(2)(d) and (3)

- (1) The licensee of a private health facility must, for each month, give the Secretary a statement (an *encounter record statement*) in accordance with this section.
Maximum penalty—5 penalty units.
- (2) The encounter record statement must—
 - (a) be in the form approved by the Secretary, and
 - (b) contain the information required to complete the statement in the approved form.
- (3) The licensee must give the encounter record statement to the Secretary within 14 days after the end of the month to which the statement relates.

28 Repeal and savings

- (1) The *Private Health Facilities Regulation 2017* is repealed.
- (2) An act, matter or thing that, immediately before the repeal of the *Private Health Facilities Regulation 2017*, had effect under that regulation continues to have effect under this regulation.

29 Transitional provision for cosmetic surgery involving fat transfer and liposuction

A reference to 500mL of lipoaspirate in the following provisions is, until the beginning of 1 March 2025, taken to be a reference to 2.5 litres of lipoaspirate—

- (a) Schedule 1, section 5(2), definition of *cosmetic surgery*, paragraphs (h) and (i),
- (b) Schedule 3, section 23(2)(a) and (b).

Schedule 1 Classes of private health facilities

section 5

1 Anaesthesia class private health facility

- (1) An anaesthesia class private health facility is a facility licensed for the treatment of patients who are administered the following—
 - (a) general anaesthetic,
 - (b) epidural anaesthetic,
 - (c) major regional anaesthetic,
 - (d) sedation resulting in deeper than conscious sedation.
- (2) In this section—
sedation does not include sedation provided in connection with a dental procedure.

2 Cardiac catheterisation class private health facility

A cardiac catheterisation class private health facility is a facility licensed for a procedure involving the passing of a catheter or other instrument through a major blood vessel and into the heart for a diagnostic or therapeutic purpose.

3 Cardiac surgery class private health facility

A cardiac surgery class private health facility is a facility licensed for surgery within, or on, the heart.

4 Chemotherapy class private health facility

A chemotherapy class private health facility is a facility licensed for intravenous treatments using 1 or more cytotoxic agents.

5 Cosmetic surgery class private health facility

- (1) A cosmetic surgery class private health facility is a facility licensed for cosmetic surgery.
- (2) In this section—
cosmetic surgery means the following surgical procedures, however described, other than a dental procedure—
 - (a) abdominoplasty, also known as a tummy tuck,
 - (b) belt lipectomy,
 - (c) brachioplasty, also known as an armlift,
 - (d) breast augmentation, revision or reduction, including by fat transfer or for gynecomastia,
 - (e) buttock augmentation, revision, reduction or lift, including by fat transfer,
 - (f) calf implants,
 - (g) facial implants that involve—
 - (i) inserting an implant on the bone, or
 - (ii) surgical exposure to deep tissue,
 - (h) fat transfer involving the transfer of more than 500mL of lipoaspirate in a 24-hour period,
 - (i) liposuction involving the removal of more than 500mL of lipoaspirate in a 24-hour period,

- (j) mastopexy or mastopexy augmentation,
- (k) necklift,
- (l) pectoral implants,
- (m) penis augmentation,
- (n) rhinoplasty, other than revision rhinoplasty,
- (o) superficial musculoaponeurotic system facelift, also known as SMAS facelift,
- (p) vaginoplasty, labiaplasty or hymenoplasty,
- (q) another surgical procedure that—
 - (i) is intended to change a person's appearance or body for cosmetic purposes, and
 - (ii) involves anaesthesia, including a Bier block.

revision rhinoplasty means a rhinoplasty performed on a patient at least 12 months after an initial rhinoplasty is performed on the patient if—

- (a) the procedure requires only a local anaesthetic to be administered, and
- (b) the procedure does not involve bony structures or turbinates, and
- (c) if a nasal airway is obstructed—the obstruction is minor and may be corrected by removing mucous membrane or cartilage, and
- (d) the patient has an adequate amount of skin available to perform the procedure.

6 Emergency class private health facility

An emergency class private health facility is a facility licensed for the care of patients injured in accidents, or those suffering from medical or other emergencies, through the provision of the following—

- (a) reception,
- (b) resuscitation,
- (c) medical and surgical treatment,
- (d) life support systems.

7 Gastrointestinal endoscopy class private health facility

A gastrointestinal endoscopy class private health facility is a facility licensed for the use of a flexible endoscope with an internal lumen for the passage of an instrument to examine the upper or lower gastrointestinal tract.

8 Intensive care (level 1 or level 2) class private health facility

An intensive care (level 1 or level 2) class private health facility is a facility licensed for the observation, care and treatment of patients with life-threatening or potentially life-threatening illnesses, injuries or complications, from which recovery is possible, in a facility that is specially staffed and equipped for that purpose.

9 Interventional neuroradiology class private health facility

An interventional neuroradiology class private health facility is a facility licensed for the diagnosis and treatment of diseases and conditions of the brain or spinal cord using procedures involving the passing of a catheter or other instrument to the brain or spine through—

- (a) the spinal canal, or
- (b) the cranial cavity, or
- (c) a major blood vessel.

10 Maternity (level 1 or level 2) class private health facility

A maternity (level 1 or level 2) class private health facility is a facility licensed for maternity care, including the following—

- (a) antenatal care related to childbirth,
- (b) assistance and care of a mother associated with normal childbirth,
- (c) surgical intervention in achieving childbirth,
- (d) assistance and care of a mother admitted to the facility immediately after childbirth.

11 Medical class private health facility

A medical class private health facility is a facility licensed for the diagnosis or treatment of patients—

- (a) admitted overnight, and
- (b) by a procedure or technique not referred to elsewhere in this schedule.

12 Mental health class private health facility

A mental health class private health facility is a facility licensed for the provision of—

- (a) mental health care to patients admitted overnight, or
- (b) psychedelic-assisted therapy.

13 Neonatal class private health facility

A neonatal class private health facility is a facility licensed for the provision of care and treatment to a baby under the age of 28 days.

14 Paediatric class private health facility

A paediatric class private health facility is a facility licensed for the provision of care and treatment to admitted patients between the ages of 28 days and 14 years.

15 Radiotherapy class private health facility

A radiotherapy class private health facility is a facility licensed for treatments involving the use of ionising radiation from a radioactive substance.

16 Rapid opioid detoxification class private health facility

- (1) A rapid opioid detoxification class private health facility is a facility licensed for rapid opioid detoxification.
- (2) In this section—
 - opioid antagonist* includes the following—
 - (a) naltrexone,
 - (b) naloxone,
 - (c) a combination of naltrexone and naloxone.
 - rapid opioid detoxification* means the use of opioid antagonists—
 - (a) in a person who is physiologically dependent on opioids, and
 - (b) for the purposes of—
 - (i) accelerating opioid withdrawal in the person, and
 - (ii) rendering the person opioid-free.

17 Rehabilitation class private health facility

- (1) A rehabilitation class private health facility is a facility licensed for physical rehabilitation where the patient is admitted overnight.
- (2) In this section—
physical rehabilitation includes—
 - (a) long-term physical rehabilitation, and
 - (b) specialised physical rehabilitation.

18 Renal dialysis class private health facility

A renal dialysis class private health facility is a facility licensed for the provision of haemodialysis.

19 Surgical class private health facility

- (1) A surgical class private health facility is a facility licensed for surgical procedures performed on patients who are administered the following—
 - (a) general anaesthetic,
 - (b) epidural anaesthetic,
 - (c) major regional anaesthetic,
 - (d) sedation resulting in deeper than conscious sedation.
- (2) In this section—
surgical procedure does not include a surgical procedure carried out by a dentist.

Schedule 2 Licensing standards for all private health facilities

section 6(1)

Part 1 Environment

1 Compliance with Australasian Health Facility Guidelines

The design of a private health facility must comply with the *Australasian Health Facility Guidelines*—

- (a) as in force—
 - (i) on the issue of the licence for the facility, or
 - (ii) if a later date is specified in the licence—on the later date, and
- (b) to the extent the guidelines relate to the health services provided by the facility.

2 Compliance with Building Code of Australia

- (1) A part of a building used as a private health facility must comply with the requirements for class 9a buildings in the *Building Code of Australia*, as in force—
 - (a) on the issue of the licence for the facility, or
 - (b) if a later date is specified in the licence—on the later date.
- (2) This section does not apply to a part of a private health facility used only to provide chemotherapy or renal dialysis to patients who are admitted and discharged on the same day.

3 Maintenance of buildings, facilities and equipment

- (1) The following must be maintained in good working order—
 - (a) private health facility buildings and fittings,
 - (b) furnishings and furniture of the facility,
 - (c) equipment used at the facility.
- (2) Appropriate maintenance programs, consistent with the manufacturer's specifications, must be in place for the following—
 - (a) warm-water systems,
 - (b) air-conditioning, heating, warming and cooling systems and appliances,
 - (c) sterilising equipment,
 - (d) communication, alarm and emergency call systems,
 - (e) biomedical equipment.

4 Equipment and stores

- (1) Medical, surgical and nursing equipment, appliances and materials that are necessary for the services or treatments performed at a private health facility must be readily available at the facility in quantities appropriate for the safe and effective performance of the services or treatments.
- (2) Without limiting subsection (1), the following equipment must be readily available—
 - (a) resuscitation equipment, for use in advanced life support, that complies with the *Standards for Resuscitation: Clinical Practice and Education* published

- by the Australian Resuscitation Council and the New Zealand Resuscitation Council in June 2014, to the extent the standards are relevant to the facility,
- (b) for a facility that admits paediatric patients—paediatric resuscitation equipment.

5 Communication system

A private health facility must have an electronic communication system in place that enables patients and staff to summon assistance from each of the following in the facility—

- (a) beds,
- (b) recovery trolleys,
- (c) recovery chairs,
- (d) patient toilets,
- (e) patient showers,
- (f) patient bathrooms.

6 Fire safety and emergency response

- (1) A private health facility must have a written fire safety and emergency response policy outlining—
 - (a) procedures to be followed if there is a fire or other emergency, and
 - (b) contingency arrangements for the transfer of patients if necessary.
- (2) The fire safety and emergency response policy must be complied with.
- (3) If there is a fire in a private health facility, the licensee of the facility must, as soon as practicable and regardless of whether the fire brigade is called to extinguish the fire—
 - (a) verbally notify the Secretary of the fire, and
 - (b) give the Secretary written notice of the fire and all relevant details of the circumstances in which the fire occurred.

7 Disaster planning

A private health facility must have a written disaster response policy outlining the procedures to be followed if there is a natural disaster or other emergency affecting the provision of services at the facility.

8 Back-up power supply

A private health facility must have a back-up power supply in place that is capable of maintaining essential services, including the following—

- (a) lighting in all clinical and patient areas of the facility,
- (b) operating theatres,
- (c) life support systems.

9 Waste and hazardous substances

- (1) A private health facility must have a written waste and hazardous substances policy outlining the procedures to be followed in relation to the handling, transport and disposal of waste and hazardous substances generated at the facility.
- (2) The policy must prevent or minimise the risk of harm to the health and safety of patients, staff, the public and the environment.

- (3) Waste and hazardous substances generated at a private health facility must be handled, transported and disposed of in accordance with the policy.

10 Food services

- (1) A private health facility that provides for the accommodation of overnight patients must for each overnight patient—
 - (a) assess the patient’s nutritional and clinical dietary needs, and
 - (b) ensure the needs are satisfied, including by providing help with feeding if necessary.
- (2) In this section—
overnight patient means a patient who is discharged on a different day to the day on which the patient was admitted.

Part 2 Clinical care

11 Staff qualifications and experience

A private health facility must have—

- (a) a sufficient number of qualified and experienced staff on duty at all times to carry out the services or treatments provided by the facility, and
- (b) nursing staff who—
 - (i) hold qualifications and experience appropriate for the services or treatments provided by the facility, and
 - (ii) are trained in the use of the equipment, including resuscitation equipment, provided by the facility.

12 Clinical records for patients

- (1) Clinical records must be created and maintained by the appropriate staff of a private health facility for each patient born or treated at the facility.
- (2) If the licence for a private health facility is transferred, all clinical records must be made available to the new licensee.
- (3) Before a private health facility ceases to operate—
 - (a) arrangements must be made for the safekeeping of clinical records in accordance with the *Health Records and Information Privacy Act 2002*, and
 - (b) the Secretary must be given details of the arrangements.

13 Infection control

- (1) A private health facility must have a written infection control policy that—
 - (a) outlines the procedures to be followed to prevent or reduce the risk of a patient acquiring an infection while at the facility, and
 - (b) provides for staff to receive ongoing education about infection control.
- (2) The infection control policy must be complied with.
- (3) A private health facility’s decontamination systems and processes for reusable medical devices and clinical equipment must comply with—
 - (a) AS/NZS 4187:2003, *Cleaning, disinfecting and sterilizing reusable medical and surgical instruments and equipment, and maintenance of associated environments in health care facilities*, or

- (b) AS/NZS 4187:2014, *Reprocessing of reusable medical devices in health service organisations*.

14 Dispensaries

The following provisions apply to a dispensary conducted at a private health facility—

- (a) the dispensary must be under the control of a pharmacist at all times,
- (b) all dispensing must be personally supervised by a pharmacist,
- (c) if the dispensary is not a pharmacy business within the meaning of the *Health Practitioner Regulation National Law (NSW)*, Schedule 5F—the functions of the dispensary must be limited to providing services to the private health facility and its patients only,
- (d) the services provided by the pharmacist in control of the dispensary must include—
 - (i) providing all medication for patients, whether on prescription or otherwise, in a form that is appropriate, as far as practicable, for direct administration or use, and
 - (ii) providing advice on drug compatibility, possible adverse drug reactions, appropriate doses for different classes of patients and medication policy, and
 - (iii) regularly inspecting drug stocks and records to ensure proper storage of medication, proper stock rotation, withdrawal of outdated or unnecessary stock and proper recording of drug use, and
 - (iv) establishing and maintaining written policies and procedures for the procurement, preparation, distribution and administration of medication and other therapeutic goods,
- (e) emergency drugs from the dispensary, as set aside by the pharmacist in control of the dispensary, must be made available to staff of the facility for the treatment of patients outside the normal hours of operation of the dispensary.

15 Identification of patients

Each patient or neonate at a private health facility must be easily identifiable at all times.

16 Admission policies and procedures

The licensee of a private health facility must seek and consider the advice of the medical advisory committee before making admission policies and procedures for the facility.

17 Separation requirement

Each patient being separated from a private health facility must be given a clear written explanation of recommendations and arrangements that have been made for follow-up care.

18 Patient transfer

- (1) A private health facility must have procedures in place to transfer a patient to another private health facility or a public hospital for care if—
 - (a) the facility is not authorised to provide the care the patient requires, or
 - (b) for complications arising during the treatment of the patient—the patient requires a higher level of care than the facility provides.

- (2) A patient must not be transferred using supported non-emergency patient transport unless a medical practitioner or registered nurse has certified that the patient—
 - (a) does not require emergency ambulance services, and
 - (b) has a low risk of deterioration during the transfer.

19 Transfer of patient records

If a patient is transferred from a private health facility to another private health facility or a public hospital for care, a copy of relevant clinical records maintained under this schedule, section 12(1) must be transferred to the other facility or hospital.

20 Privacy of patients

The privacy of patients of a private health facility must be considered and respected by all staff of the facility.

Part 3 Quality improvement

21 Incident and adverse event management

- (1) The Ministry of Health must be notified if there is an adverse event at a private health facility.
- (2) A private health facility must have a written incident management system outlining the procedures to be followed if there is an incident or adverse event.
- (3) Without limiting subsection (2), the incident management system must provide for the following—
 - (a) identifying incidents and adverse events,
 - (b) notifying appropriate authorities, for example, the Therapeutic Goods Administration and the Health Care Complaints Commission, about incidents and adverse events,
 - (c) investigating incidents and adverse events,
 - (d) managing the outcomes of an investigation referred to in paragraph (c).
- (4) The incident management system must be complied with.
- (5) In this section—

adverse event means an unintended injury to a patient, or a complication caused by the health care management of a patient, that results in—

- (a) major permanent loss of sensory, motor, physiological or psychological function for the patient, or
- (b) the death of the patient.

incident means an unplanned event resulting in, or with the potential to cause, injury, damage or loss to a patient.

22 Complaints

- (1) A private health facility must have a written complaints policy outlining the procedures to be followed in managing and responding to complaints.
- (2) Patients, relatives of patients and other carers of patients must be given information about—
 - (a) the procedure for making complaints, and
 - (b) the process for managing and responding to complaints.
- (3) The complaints policy must be complied with.

23 Quality and outcome audits

Regular audits must be conducted—

- (a) to ensure a private health facility complies with statutory requirements and the facility's policies and procedures, and
- (b) to monitor the effectiveness of the facility's policies, procedures, clinical services and patient outcomes.

24 Risk assessments and safety inspections

- (1) A private health facility must have a written risk assessment and safety inspection program outlining the procedures for carrying out risk assessments and safety inspections, including the frequency with which the assessments and inspections must be carried out.
- (2) The risk assessment and safety inspection program must be complied with.

Schedule 3 Licensing standards for classes of private health facilities

section 6(2)

Part 1 Anaesthesia class private health facilities

1 Application of part

This part applies to an anaesthesia class private health facility.

2 Sedation and anaesthesia

A facility must have the following—

- (a) anaesthetic equipment recommended in *PS55(A) Position statement on minimum facilities for safe administration of anaesthesia in operating suites and other anaesthetising locations 2021* published by the Australian and New Zealand College of Anaesthetists,
- (b) monitoring equipment recommended in the *PG18(A) Guideline on monitoring during anaesthesia 2017* published by the Australian and New Zealand College of Anaesthetists,
- (c) recovery equipment and drugs recommended in the *PS04(A) Position statement on the post-anaesthesia care unit 2020* published by the Australian and New Zealand College of Anaesthetists.

3 Staffing

A facility must provide staff to assist an anaesthetist in accordance with the *PS55(A) Position statement on minimum facilities for safe administration of anaesthesia in operating suites and other anaesthetising locations 2021* published by the Australian and New Zealand College of Anaesthetists.

Part 2 Cardiac catheterisation class private health facilities

4 Application of part

This part applies to a cardiac catheterisation class private health facility.

5 Design and construction

A facility must comply with the *Guidelines on Support Facilities for Coronary Angiography and Percutaneous Coronary Intervention (PCI)* published by the Cardiac Society of Australia and New Zealand in 2016.

6 Minimum accommodation requirements

A facility must provide for the accommodation of 1 or more of the following groups of patients—

- (a) patients who are admitted for more than 24 hours,
- (b) patients who are not discharged on the same day they are admitted, but are admitted for not more than 24 hours,
- (c) patients who are admitted and discharged on the same day.

7 Accommodation standards

- (1) A facility must comply with the overnight accommodation standards if the facility provides for the accommodation of patients who are admitted for more than 24 hours.

- (2) A facility must comply with the extended recovery accommodation standards if the facility provides for the accommodation of patients who are not discharged on the same day they are admitted, but are admitted for not more than 24 hours.

Part 3 Cardiac surgery class private health facilities

8 Application of part

This part applies to a cardiac surgery class private health facility.

9 Design and construction

A facility must comply with the *Guidelines for the Establishment of an Adult Cardiac Surgery Unit (CSU)* published by the Australian and New Zealand Society of Cardiac and Thoracic Surgeons in October 2014.

10 Concurrent licensing

A facility must also be licensed as an intensive care (level 2) class private health facility.

11 Minimum operating requirements

If a facility carries out open-heart surgery, the facility must have at least 2 independent operating rooms that are equipped to carry out cardiac surgery class procedures.

12 Minimum accommodation requirements

A facility must provide for the accommodation of patients who are admitted for more than 24 hours.

13 Accommodation standards

A facility must comply with the overnight accommodation standards.

Part 4 Chemotherapy class private health facilities

14 Application of part

This part applies to a chemotherapy class private health facility.

15 Design and construction

A part of a building used for a facility must comply with the requirements for class 5 buildings in the *Building Code of Australia*, as in force—

- (a) on the issue of the licence for the facility, or
- (b) if a later date is specified in the licence—on the later date.

16 Policies and procedures

- (1) A facility must have written policies and procedures for—
- (a) providing information and counselling to patients and their relatives, and
 - (b) admitting and discharging patients, including continuing care and review, and
 - (c) managing side effects, and
 - (d) providing access to relevant specialists for consultation.
- (2) A facility must also have a written policy on providing chemotherapy as part of a multidisciplinary approach to patient care, including specific provisions for—

- (a) consultation, and
- (b) referral, and
- (c) links to other relevant services for the patient, including the following—
 - (i) radiation oncology,
 - (ii) surgical services,
 - (iii) clinical haematology,
 - (iv) palliative care,
 - (v) clinical support services.

17 Appropriate practitioners

A facility must have sufficient appropriate practitioners for the services provided, including the following for consultation—

- (a) medical oncologists,
- (b) haematologists,
- (c) specialist nurses,
- (d) other relevant specialists.

18 Antineoplastic drugs

- (1) Antineoplastic drugs administered at a facility must be prepared from a cytotoxic drug cabinet that complies with, and that is in a room that complies with, AS 2252.5:2017, *Controlled environments, Part 5: Cytotoxic drug safety cabinets (CDSC)—Design, construction, installation, testing and use*.
- (2) A facility must ensure the clinical record for each patient who receives an antineoplastic drug includes—
 - (a) a written treatment plan based on the assessment of the patient, and
 - (b) a signed record of the patient’s consent to the treatment, and
 - (c) the details of the antineoplastic drugs, and the dose of the drugs, prescribed for and administered to the patient.
- (3) A facility must comply with the *Guidelines for the safe prescribing, dispensing and administration of systemic cancer therapy* published by the Clinical Oncology Society of Australia in April 2018.
- (4) The medical advisory committee of a facility must include a specialist oncologist or a consultant physician trained in oncology when matters relating to antineoplastic drugs are discussed.

19 Review of certain treatment

- (1) A facility must ensure the prescription or administration of antineoplastic drugs that are outside the scope of normal clinical practices or protocols is regularly and independently reviewed and audited.
- (2) In this section—

independent, in relation to a review or audit, means the review or audit is conducted by—

 - (a) at least 1 oncologist, and
 - (b) persons who are independent of the treating clinician, whether or not the persons are independent of the facility.

20 Minimum accommodation requirements

A facility must provide for the accommodation of 1 or more of the following groups of patients—

- (a) patients who are admitted for more than 24 hours,
- (b) patients who are not discharged on the same day they are admitted, but are admitted for not more than 24 hours,
- (c) patients who are admitted and discharged on the same day.

21 Accommodation standards

- (1) A facility must comply with the overnight accommodation standards if the facility provides for the accommodation of patients who are admitted for more than 24 hours.
- (2) A facility must comply with the extended recovery accommodation standards if the facility provides for the accommodation of patients who are not discharged on the same day they are admitted, but are admitted for not more than 24 hours.

Part 5 Cosmetic surgery class private health facilities

22 Application of part

This part applies to a cosmetic surgery class private health facility.

23 Application of certain standards

- (1) A facility must comply with the standards for—
 - (a) anaesthesia class private health facilities set out in this schedule, Part 1, and
 - (b) surgical class private health facilities set out in this schedule, Part 19, other than section 103.
- (2) A facility may comply with the sedation and analgesia guidelines instead of complying with subsection (1)(a) for—
 - (a) fat transfer involving the transfer of more than 500mL of lipoaspirate in a 24-hour period, or
 - (b) liposuction involving the removal of more than 500mL of lipoaspirate in a 24-hour period.

Part 6 Emergency class private health facilities

24 Application of part

This part applies to an emergency class private health facility.

25 Design of emergency area

A part of a facility used to provide emergency treatment must be designed for the reception, assessment, stabilisation, treatment and transfer of patients.

26 Staffing

A facility must—

- (a) have an appropriately qualified and experienced medical practitioner appointed as director of the emergency service, and
- (b) have appropriately qualified specialists available on call at all times, and
- (c) have a sufficient number of appropriately trained and experienced staff on duty at all times, and

- (d) be open to receive patients at all times.

27 Triage of patients

A facility must have arrangements in place for appropriately experienced clinical staff to triage a patient when the patient arrives.

28 Policies and procedures

A facility must have written policies and procedures for—

- (a) coordinating services with other private health facilities and public hospitals in surrounding areas, and
- (b) integrating emergency services with other clinical and educational programs carried on at the facility, and
- (c) safely moving patients in parts of the facility used to provide emergency class procedures, and
- (d) reviewing care plans for patients.

29 Patient transfer

A facility must have—

- (a) effective communication arrangements with the Ambulance Service of NSW, and
- (b) written procedures for the transfer of patients requiring a higher level of care than the facility provides.

30 Clinical records

- (1) A facility must have a clinical record for each patient at the facility.
- (2) The clinical record must include the following—
 - (a) the date and time of the patient's arrival,
 - (b) details of the patient's presenting symptoms and condition,
 - (c) the triage category allocated when the patient is first assessed,
 - (d) details of significant clinical, laboratory and radiological findings,
 - (e) if the patient is treated—details of the treatment,
 - (f) if the patient is given follow-up directions—details of the directions,
 - (g) the date and time of the patient's departure,
 - (h) the identity and signature of the attending medical officer.

31 Minimum accommodation requirements

A facility must provide for the accommodation of patients who are admitted for more than 24 hours.

Part 7 Gastrointestinal endoscopy class private health facilities

32 Application of part

This part applies to a gastrointestinal endoscopy class private health facility.

33 Compliance with guidelines

A facility must comply with the sedation and analgesia guidelines.

34 Disinfection of endoscopes

Endoscopes used at a facility must be disinfected—

- (a) using an automatic endoscope reprocessor or otherwise in accordance with the manufacturer's instructions, and
- (b) in an area that—
 - (i) has atmospheric extraction facilities, and
 - (ii) is next to the procedure room where the endoscope will be used.

35 Reprocessing of other equipment

- (1) Instruments and other equipment used at a facility must be decontaminated, cleaned and reprocessed in accordance with—
 - (a) AS/NZS 4187:2003, *Cleaning, disinfecting and sterilizing reusable medical and surgical instruments and equipment, and maintenance of associated environments in health care facilities*, or
 - (b) AS/NZS 4187:2014, *Reprocessing of reusable medical devices in health service organisations*.
- (2) The decontamination, cleaning and reprocessing of equipment and instruments used in a facility must be carried out by a staff member who has appropriate training and experience.

36 Minimum accommodation requirements

A facility must provide for the accommodation of 1 or more of the following groups of patients—

- (a) patients who are admitted for more than 24 hours,
- (b) patients who are not discharged on the same day they are admitted, but are admitted for not more than 24 hours,
- (c) patients who are admitted and discharged on the same day.

37 Accommodation standards

- (1) A facility must comply with the overnight accommodation standards if the facility provides for the accommodation of patients who are admitted for more than 24 hours.
- (2) A facility must comply with the extended recovery accommodation standards if the facility provides for the accommodation of patients who are not discharged on the same day they are admitted, but are admitted for not more than 24 hours.

Part 8 Intensive care (level 1 or level 2) class private health facilities

38 Application of part

This part applies to an intensive care (level 1 or level 2) class private health facility.

39 Staffing

- (1) A facility must have—
 - (a) a medical practitioner appointed as director of the facility who has—
 - (i) for a level 1 facility—appropriate qualifications, or
 - (ii) for a level 2 facility—a recognised postgraduate qualification in intensive care, and

- (b) for a level 1 facility—a medical practitioner on duty at the facility at all times, with priority for attendance on patients in the facility, and
- (c) for a level 2 facility—a medical practitioner with an appropriate level of experience present in the facility at all times, and
- (d) sufficient nursing staff on duty at all times, being—
 - (i) a nursing staff to patient ratio of at least 1:1 for critically ill patients, and
 - (ii) for a level 2 facility—a nursing staff at least 50% of whom are registered nurses with intensive care certification.

(2) In this section—

level 1 facility means a level I unit within the meaning of the *Minimum Standards for Intensive Care Units*.

level 2 facility means a level II unit within the meaning of the *Minimum Standards for Intensive Care Units*.

40 Minimum operating requirements

A facility must comply with the requirements of the *Minimum Standards for Intensive Care Units*.

41 Minimum accommodation requirements

A facility must provide for the accommodation of patients who are admitted for more than 24 hours.

42 Accommodation standards

A facility must comply with the overnight accommodation standards.

Part 9 Interventional neuroradiology class private health facilities

43 Application of part

This part applies to an interventional neuroradiology class private health facility.

44 Minimum accommodation requirements

A facility must provide for the accommodation of 1 or more of the following groups of patients—

- (a) patients who are admitted for more than 24 hours,
- (b) patients who are not discharged on the same day they are admitted, but are admitted for not more than 24 hours,
- (c) patients who are admitted and discharged on the same day.

45 Accommodation standards

- (1) A facility must comply with the overnight accommodation standards if the facility provides for the accommodation of patients who are admitted for more than 24 hours.
- (2) A facility must comply with the extended recovery accommodation standards if the facility provides for the accommodation of patients who are not discharged on the same day they are admitted, but are admitted for not more than 24 hours.

Part 10 Maternity (level 1 or level 2) class private health facilities

Division 1 Preliminary

46 Application of part

This part applies to a maternity (level 1 or level 2) class private health facility.

47 Definitions

In this part—

level 1 facility means a facility licensed to admit patients for maternity class procedures from 37 weeks completed gestation.

level 2 facility means a facility licensed to admit patients for maternity class procedures from 34 weeks completed gestation, subject to section 48(3).

maternity and neonatal service capability guideline means the NSW Health guideline *Maternity and Neonatal Service Capability* published on 20 May 2022.

Division 2 Facilities generally

48 Term of pregnancy

- (1) A level 1 facility must not admit a patient for maternity class procedures before 37 weeks completed gestation.
- (2) A level 2 facility must not admit a patient for maternity class procedures before 34 weeks completed gestation other than under subsection (3).
- (3) A level 2 facility may admit a patient for maternity class procedures before 34 weeks completed gestation, but not before 32 weeks completed gestation, if—
 - (a) the facility is also licensed as a neonatal class private health facility, and
 - (b) the facility's licence is subject to a condition to the effect that the facility must have, in the Secretary's opinion, appropriate support services, infrastructure and staff with clinical expertise to provide maternity class procedures to patients who have completed between 32 and 34 weeks gestation, and
 - (c) the facility has a written policy, developed having regard to the provisions of the maternity and neonatal service capability guideline, that addresses the following—
 - (i) clinical governance, including competence and credentialling of staff,
 - (ii) quality and safety processes,
 - (iii) service requirements, including consultation, escalation, transfer and education.

49 Normal risk pregnancies

- (1) A facility must have support services, infrastructure and staff with appropriate clinical expertise to provide care for normal risk pregnancies, including the following—
 - (a) obstetricians, anaesthetists and a paediatrician on call at all times,
 - (b) a medical practitioner at the facility at all times,
 - (c) experienced midwives on duty at all times,
 - (d) established links with clinical nurse consultants or clinical nurse educators in midwifery and neonatal nursing.

- (2) Subsection (1)(b) and (c) do not apply to the Birthing on Country demonstration facility within the meaning of Division 3.

50 Additional risk pregnancies

- (1) A level 1 facility must not admit a maternity patient with an additional risk pregnancy.
- (2) A level 2 facility must not admit a maternity patient with an additional risk pregnancy unless—
- (a) the medical advisory committee is satisfied the facility is able to provide appropriate care for the patient, having regard to risk factors relevant to the patient, and
 - (b) the facility has appropriate support services and infrastructure and staff with clinical expertise relevant to the risk factors of the patient, including—
 - (i) obstetricians, anaesthetists and a paediatrician on call at all times, and
 - (ii) a medical practitioner at the facility at all times, and
 - (iii) experienced midwives on duty at all times, and
 - (iv) established links with clinical nurse consultants or clinical nurse educators in midwifery and neonatal nursing, and
 - (v) a special care nursery.

51 Accommodation of neonates

A facility must have appropriate accommodation and procedures to manage healthy neonates and neonates with minimal complications.

52 Patient transfer

- (1) A facility must have procedures in place to transfer patients requiring a higher level of care than the facility provides, including procedures—
- (a) for the transfer of patients in premature labour, and
 - (b) for the resuscitation and stabilisation of neonates before their transfer.
- (2) The procedures must be—
- (a) reviewed at least once every 3 years, and
 - (b) submitted to the medical advisory committee for approval.
- (3) In this section—
- patient in premature labour* means a patient who is in labour but who has not completed the number of weeks gestation required for admission to the facility.

53 Birth register

- (1) A facility must keep a birth register.
- (2) The birth register must contain details of every child born at the facility, including the following—
- (a) the mother's full name and clinical record number,
 - (b) the date and time of the child's birth,
 - (c) the sex of the child,
 - (d) whether the child was born alive,
 - (e) the method of delivery,
 - (f) the names of midwives and medical practitioners present at the birth.

- (3) The details of a child's birth must be kept in the birth register for at least 25 years after the child's birth.

54 Minimum accommodation requirements

A facility must provide for the accommodation of patients who are admitted for more than 24 hours.

55 Accommodation standards

A facility must comply with the overnight accommodation standards.

Division 3 Birthing on Country demonstration facility

56 Definition

In this division—

Birthing on Country demonstration facility means the level 1 facility that has an agreement with the Illawarra Shoalhaven Local Health District for—

- (a) support for the delivery of maternity care within the facility, and
- (b) the transfer and admission of patients to a hospital operated by the local health district.

57 One Birthing on Country demonstration facility

- (1) The Birthing on Country demonstration facility must be located only in the area served by the Illawarra Shoalhaven Local Health District.
- (2) There must not be more than 1 Birthing on Country demonstration facility at any time.

58 Additional requirements for Birthing on Country demonstration facility

- (1) The Birthing on Country demonstration facility must—
 - (a) have an endorsed midwife on duty at the facility at all times while a patient is admitted to the facility for maternity care, and
 - (b) have at least 1 additional endorsed midwife on call at all times, and
 - (c) have a written policy for the delivery of a Birthing on Country model of maternity care, and
 - (d) have a written policy, developed having regard to the provisions of the maternity and neonatal service capability guideline, that address the following—
 - (i) clinical governance, including competence and credentialling of staff,
 - (ii) quality and safety processes,
 - (iii) service requirements, including consultation, escalation, transfer and education, and
 - (e) comply with the *National Midwifery Guidelines for Consultation and Referral*, 4th edition, published by the Australian College of Midwives, and
 - (f) ensure all midwives providing services at the facility have skills and experience in the following—
 - (i) the repair of perineal tears, other than third and fourth degree perineal tears,
 - (ii) the management of obstetric emergencies and neonatal emergencies.
- (2) In this section—

endorsed midwife means a midwife whose registration is endorsed under the *Health Practitioner Regulation National Law (NSW)*, section 94.

perineal tear and **third and fourth degree perineal tear** have the same meanings as in the *Third and Fourth Degree Perineal Tears Clinical Care Standard* published by the Australian Commission on Safety and Quality in Health Care in April 2021.

59 Modification of Schedule 2 for Birthing on Country demonstration facility

For the Birthing on Country demonstration facility—

- (a) a reference in Schedule 2, section 11 to nursing staff must be read as a reference to midwifery staff, and
- (b) a reference in Schedule 2, section 18 to a registered nurse must be read as a reference to a midwife practising at the Birthing on Country demonstration facility.

Part 11 Medical class private health facilities

60 Application of part

This part applies to a medical class private health facility.

61 Minimum accommodation requirements

A facility must provide for the accommodation of patients who are admitted for more than 24 hours.

62 Accommodation standards

A facility must comply with the overnight accommodation standards.

Part 12 Mental health class private health facilities

63 Application of part

This part applies to a mental health class private health facility.

64 Design and construction

A part of a facility used to provide mental health care must be designed to meet the needs of mentally ill and mentally disordered persons, within the meaning of the *Mental Health Act 2007*, including—

- (a) appropriate arrangements for patient safety and protection, and
- (b) areas for observation of patients, and
- (c) accommodation providing personal privacy, consistent with the care being provided.

65 Electro convulsive therapy

A facility at which electro convulsive therapy is administered must—

- (a) have treatment and recovery areas set aside for that purpose, and
- (b) also be licensed as an anaesthesia class private health facility, and
- (c) have procedures in place to ensure compliance with—
 - (i) the *Mental Health Act 2007*, Chapter 4, Part 2, Division 3, and
 - (ii) *Electroconvulsive Therapy: ECT Minimum Standard of Practice in NSW* published by the Ministry of Health in January 2011.

66 Psychedelic-assisted therapy

- (1) Notice must be given to the Secretary at least 7 days before psychedelic-assisted therapy is first provided at a facility.
- (2) The staff of a facility must, when providing psychedelic-assisted therapy, consider the memorandum *Therapeutic use of MDMA for PTSD and psilocybin for treatment resistant depression* published by the Royal Australian and New Zealand College of Psychiatrists in June 2023.
- (3) The licensee of a facility at which psychedelic-assisted therapy is provided must give the Secretary a statement of information for each 6-month period commencing when the therapy is first provided at the facility.
- (4) The statement of information must relate to each patient to whom the therapy has been provided during the period.
- (5) The statement of information must be—
 - (a) in the form approved by the Secretary, and
 - (b) given to the Secretary within 14 days after the end of the 6-month period to which the statement relates.

67 Conduct of facilities

- (1) A facility must have—
 - (a) a written policy on providing psychiatric services, including a statement of the facility's philosophy of service, which must be consistent with the principles specified in the *Mental Health Act 2007*, section 68 for the care and treatment of people with a mental illness or mental disorder, and
 - (b) written policies and procedures for—
 - (i) supporting the functions of the Mental Health Review Tribunal constituted under the *Mental Health Act 2007*, and
 - (ii) supporting the functions of official visitors and authorised officers, and
 - (iii) supporting the administration of the *Guardianship Act 1987*, and
 - (iv) managing patients' trust funds, and
 - (c) clear written criteria and assessment procedures for admitting inpatients and outpatients to psychiatric programs, and
 - (d) a written treatment plan for each patient that—
 - (i) is based on the assessment of the patient, and
 - (ii) provides for the patient's discharge, continuing care and review, and
 - (e) access at all times to a psychiatrist, and
 - (f) access to a general practitioner and relevant specialists for consultation, and
 - (g) sufficient registered nurses with appropriate psychiatric qualifications or experience on duty at all times.

- (2) The policies and procedures referred to in subsection (1) must be complied with.

- (3) In this section—

authorised officer means an authorised officer appointed under the *Health Services Act 1997*, section 124.

Note— See also the *Mental Health Act 2007*, Chapter 5, Part 4.

official visitor means an official visitor appointed under the *Mental Health Act 2007*, Chapter 5, Part 3.

68 Telephone access

A facility must have on each floor used to provide mental health care at least 1 telephone that patients and their next of kin may use for incoming and outgoing calls.

69 Visiting hours

- (1) Patients in a facility must be allowed to receive visitors at a reasonable time.
- (2) However, if necessary for the care of a patient, a medical practitioner or the senior nurse on duty may—
 - (a) restrict the hours for visiting the patient and, if necessary, other patients in the same ward, and
 - (b) restrict the number of persons who may visit the patient at one time.

70 Minimum accommodation requirements

A facility must provide for the accommodation of patients who are admitted for more than 24 hours.

71 Accommodation standards

A facility must comply with the overnight accommodation standards.

Part 13 Neonatal class private health facilities

72 Application of part

This part applies to a neonatal class private health facility.

73 Accommodation of neonates

A facility must have appropriate accommodation and procedures to manage healthy neonates, neonates with minimal complications and recovering neonates, including a neonatal intensive care unit.

74 Transfer of neonates

- (1) A facility must have written procedures for the transfer of neonates requiring a higher level of care than the facility provides.
- (2) The procedures must provide for the resuscitation and stabilisation of neonates before their transfer.
- (3) The procedures must be—
 - (a) reviewed at least once every 3 years, and
 - (b) submitted to the medical advisory committee for approval.

75 Minimum accommodation requirements

A facility must provide for the accommodation of patients who are admitted for more than 24 hours.

76 Accommodation standards

A facility must comply with the overnight accommodation standards.

Part 14 Paediatric class private health facilities

77 Application of part

This part applies to a paediatric class private health facility.

78 Admission policy

- (1) A facility must have a written policy for determining whether a paediatric patient may be admitted to the facility.
- (2) The policy must provide for the following—
 - (a) the age of paediatric patients who may be admitted to the facility,
 - (b) the types of procedures that may be performed on, and treatments that may be given to, paediatric patients,
 - (c) the maximum period for which a paediatric patient may be admitted,
 - (d) the maximum number of paediatric patients who may be admitted to the facility at one time,
 - (e) the facilities that are available for the care and treatment of paediatric patients.
- (3) The policy must be—
 - (a) reviewed at least once every 3 years, and
 - (b) submitted to the medical advisory committee for approval.

79 Visitor policy

A facility must have a written visitor policy that—

- (a) allows a person who has the care of a paediatric patient to access the patient at all times, except while the patient is undergoing surgery, and
- (b) allows a person who has the care of a paediatric patient to access a patient undergoing surgery while the patient is in pre-anaesthesia or recovery unless, in the opinion of the medical practitioner responsible for the patient's treatment, it would not be in the patient's best interests, and
- (c) ensures resources are made available to allow a person who has the care of a paediatric patient to remain at the facility during the patient's stay at the facility.

80 Patient transfer

- (1) A facility must have procedures in place that provide for the transfer of patients who require care or treatment not provided by the facility.
- (2) The procedures must be—
 - (a) reviewed at least once every 3 years, and
 - (b) submitted to the medical advisory committee for approval.

81 Minimum operating requirements

While a paediatric patient is admitted to a facility, the facility must have—

- (a) a paediatric physician available for consultation, and
- (b) a registered nurse on duty who has appropriate paediatric experience or qualifications, and
- (c) for a paediatric patient less than 12 months of age—microchemistry available for analysis of capillary blood specimens.

82 Minimum accommodation requirements

A facility must provide for the accommodation of 1 or more of the following groups of patients—

- (a) patients who are admitted for more than 24 hours,
- (b) patients who are not discharged on the same day they are admitted, but are admitted for not more than 24 hours,
- (c) patients who are admitted and discharged on the same day.

83 Accommodation standards

- (1) A facility must comply with the overnight accommodation standards if the facility provides for the accommodation of patients who are admitted for more than 24 hours.
- (2) A facility must comply with the extended recovery accommodation standards if the facility provides for the accommodation of patients who are not discharged on the same day they are admitted, but are admitted for not more than 24 hours.

Part 15 Radiotherapy class private health facilities

84 Application of part

This part applies to a radiotherapy class private health facility.

85 Conduct of facilities

A facility must—

- (a) maintain the facility's radiotherapy equipment in good working order, and
- (b) maintain a system for independent dosimetry auditing of linear accelerators, and
- (c) have a written policy on providing radiotherapy services as part of a multidisciplinary approach to patient care, including specific provisions about—
 - (i) consultation, and
 - (ii) referral, and
 - (iii) links to other relevant services for the patient, including medical oncology, surgical services, clinical haematology, palliative care and clinical support services, and
- (d) have sufficient appropriate practitioners for the services provided, including radiation therapists, radiation oncologists, medical physicists and other relevant specialists for consultation.

86 Minimum accommodation requirements

A facility must provide for the accommodation of 1 or more of the following groups of patients—

- (a) patients who are admitted for more than 24 hours,
- (b) patients who are not discharged on the same day they are admitted, but are admitted for not more than 24 hours,
- (c) patients who are admitted and discharged on the same day.

87 Accommodation standards

- (1) A facility must comply with the overnight accommodation standards if the facility provides for the accommodation of patients who are admitted for more than 24 hours.

- (2) A facility must comply with the extended recovery accommodation standards if the facility provides for the accommodation of patients who are not discharged on the same day they are admitted, but are admitted for not more than 24 hours.

Part 16 Rapid opioid detoxification class private health facilities

88 Application of part

This part applies to a rapid opioid detoxification class private health facility.

89 Compliance with guidelines

A facility must comply with the *NSW Clinical Guidelines: Treatment of Opioid Dependence—2018* published by the Ministry of Health in September 2018.

90 Patient transfer

- (1) A facility must have access to an intensive care (level 1 or level 2) class private health facility or a public hospital to which a patient may be transferred for intensive care in less than 30 minutes.
- (2) A facility that is not also licensed as an intensive care (level 1 or level 2) class private health facility must have—
 - (a) written procedures in place that provide for the transfer of a patient in less than 30 minutes to an intensive care (level 1 or level 2) class private health facility or a public hospital if the patient requires a higher level of care than the facility provides, and
 - (b) an appropriately equipped vehicle, that is available while rapid opioid detoxification is carried out, to transfer a patient to an intensive care (level 1 or level 2) class private health facility.

91 Staffing

- (1) A facility must have—
 - (a) a medical practitioner who has experience in opioid treatment and managing detoxification, including severe withdrawal management, on staff or on call at all times, and
 - (b) a medical practitioner on duty for 4 hours after an induction procedure is carried out on a patient, and
 - (c) a medical practitioner on duty or on call between 4 hours and 48 hours after an induction procedure is carried out on a patient.
- (2) A facility must have sufficient nursing staff on duty at all times, including—
 - (a) a nursing staff to patient ratio of at least 1:2 for 8 hours after an induction procedure is carried out on a patient, and
 - (b) a nursing staff to patient ratio of at least 1:4 between 8 hours and 24 hours after an induction procedure is carried out on a patient.

92 Minimum accommodation requirements

A facility must provide for the accommodation of patients who are admitted for more than 24 hours.

93 Accommodation standards

A facility must comply with the overnight accommodation standards.

Part 17 Rehabilitation class private health facilities

94 Application of part

This part applies to a rehabilitation class private health facility.

95 Conduct of facilities

A facility must—

- (a) have a written policy on providing rehabilitation services, including—
 - (i) a statement of the facility’s philosophy of service, and
 - (ii) details of links with community-based services to ensure continuity and coordination of patient care, and
- (b) have clear written criteria and assessment procedures for admitting inpatients and outpatients to rehabilitation programs, and
- (c) have a written rehabilitation plan for each patient that—
 - (i) is based on an assessment of the patient, and
 - (ii) states the needs and limitations of the patient and the goals of the rehabilitation plan, and
 - (iii) is prepared by a multidisciplinary team with the active participation of the patient’s family, and
 - (iv) provides for the patient’s discharge, continuing care and review, and
- (d) have procedures for regularly evaluating the progress of a patient against the patient’s rehabilitation plan, and
- (e) have a formal and planned discharge procedure, and
- (f) provide for regular case management meetings involving the treating medical practitioner and appropriate therapists to review individual rehabilitation plans, and
- (g) have specialists for consultation, and
- (h) have sufficient appropriate therapists for the services provided, and
- (i) have sufficient registered nurses with appropriate rehabilitation qualifications or experience on duty at all times, and
- (j) if a patient with brain impairment is being treated—have access to the services of a neuropsychologist, and
- (k) if a patient with chronic pain is being treated—have access to the services of a clinical psychologist.

96 Clinical records

The clinical record of a patient in a facility must include the following—

- (a) a clear statement by the treating medical practitioner—
 - (i) explaining why the patient is receiving rehabilitation, and
 - (ii) that is consistent with the policies, procedures and plans referred to in this schedule, section 94,
- (b) a rehabilitation plan based on the assessment of the patient,
- (c) a record of each evaluation of the patient’s progress,
- (d) a discharge plan.

97 Minimum accommodation requirements

A facility must provide for the accommodation of patients who are admitted for more than 24 hours.

98 Accommodation standards

A facility must comply with the overnight accommodation standards.

Part 18 Renal dialysis class private health facilities

99 Application of part

This part applies to a renal dialysis class private health facility.

100 Design and construction

A part of a building used for a facility must comply with the requirements for class 5 buildings in the *Building Code of Australia*, as in force—

- (a) on the issue of the licence for the facility, or
- (b) if a later date is specified in the licence—on the later date.

101 Minimum accommodation requirements

A facility must provide for the accommodation of 1 or more of the following groups of patients—

- (a) patients who are admitted for more than 24 hours,
- (b) patients who are not discharged on the same day they are admitted, but are admitted for not more than 24 hours,
- (c) patients who are admitted and discharged on the same day.

102 Accommodation standards

- (1) A facility must comply with the overnight accommodation standards if the facility provides for the accommodation of patients who are admitted for more than 24 hours.
- (2) A facility must comply with the extended recovery accommodation standards if the facility provides for the accommodation of patients who are not discharged on the same day they are admitted, but are admitted for not more than 24 hours.

Part 19 Surgical class private health facilities

103 Application of part

This part applies to a surgical class private health facility.

104 Concurrent licensing

A facility must also be licensed as an anaesthesia class private health facility.

105 Procedure register

- (1) A facility must keep a procedure register.
- (2) The procedure register must contain details of every surgical procedure carried out at the facility, including the following—
 - (a) the patient's full name and medical record number,
 - (b) the name of the procedure,

- (c) the names of surgeons, surgical assistants, anaesthetists and scrub nurses involved in the procedure,
- (d) the anaesthetic administered,
- (e) the date, time and place of the procedure.

106 Clinical records

- (1) A facility must have a clinical record for each patient at the facility on whom a surgical class procedure is carried out.
- (2) The clinical record must include the following—
 - (a) if anaesthesia is administered—the anaesthetic record, which must comply with the *PG06(A) Guideline on the anaesthesia record* published by the Australian and New Zealand College of Anaesthetists in 2020,
 - (b) the procedural report for the surgical procedure carried out on the patient, including pre-procedural and post-procedural diagnoses, and a description of the findings, technique used and tissue removed or altered,
 - (c) if the patient’s tissue or body fluid is removed—a pathological report on the tissue or body fluid,
 - (d) a record of the swab, sponge and instrument count,
 - (e) the post-procedural recovery record.

107 Specialist equipment

A facility must have the following equipment available in each room in which a surgical class procedure is carried out—

- (a) adequate equipment and instruments for elective use,
- (b) sterile instrument sets available for emergency procedures.

108 Minimum accommodation requirements

A facility must provide for the accommodation of 1 or more of the following groups of patients—

- (a) patients who are admitted for more than 24 hours,
- (b) patients who are not discharged on the same day they are admitted, but are admitted for not more than 24 hours,
- (c) patients who are admitted and discharged on the same day.

109 Accommodation standards

- (1) A facility must comply with the overnight accommodation standards if the facility provides for the accommodation of patients who are admitted for more than 24 hours.
- (2) A facility must comply with the extended recovery accommodation standards if the facility provides for the accommodation of patients who are not discharged on the same day they are admitted, but are admitted for not more than 24 hours.

Schedule 4 Accommodation standards

Schedule 5

Part 1 Extended recovery accommodation standards

1 Admission criteria

- (1) A private health facility must have a written policy for determining whether a person may be admitted as a patient of the facility.
- (2) The admission policy must be—
 - (a) reviewed at least once every 3 years, and
 - (b) submitted to the medical advisory committee for approval.
- (3) A private health facility must not admit a patient except in accordance with the admission policy.

Part 2 Overnight accommodation standards

2 Compliance with guidelines

A part of a private health facility used to accommodate patients for more than 24 hours must meet the requirements for an inpatient accommodation unit under the *Australasian Health Facility Guidelines*, as in force on the issue of the licence for the facility or on a later date specified in the licence.

Schedule 5 Dictionary

section 3

anaesthesia means the administration of general, epidural or major regional anaesthetic or sedation resulting in deeper than conscious sedation, other than—

- (a) sedation provided in connection with dental procedures, or
- (b) anaesthetic or sedation administered—
 - (i) in diagnostic imaging premises, within the meaning of the *Health Insurance Act 1973* of the Commonwealth, on the premises of a licensed anaesthesia class private health facility, and
 - (ii) to a patient of the private health facility, and
 - (iii) by a registered medical practitioner who is a member of staff of, or accredited to provide health services at, the private health facility.

Australasian Health Facility Guidelines means the *Australasian Health Facility Guidelines* endorsed by the Australasian Health Infrastructure Alliance in Australia and New Zealand that commenced on 23 November 2007.

Building Code of Australia has the same meaning as in the *Environmental Planning and Assessment Act 1979*.

cardiac catheterisation means the passing of a catheter or other instrument through a major blood vessel and into the heart for a diagnostic or therapeutic purpose.

chemotherapy means intravenous treatments using 1 or more cytotoxic agents.

class of procedures, in relation to a private health facility, means the services or treatments for which the facility is licensed.

Examples—

Rapid opioid detoxification class procedures are the services or treatments for which a rapid opioid detoxification class private health facility is licensed—see Schedule 1, section 16.

Surgical class procedures are the services or treatments for which a surgical class private health facility is licensed—see Schedule 1, section 19.

cosmetic surgery—see Schedule 1, section 5(2).

extended recovery accommodation standards means the standards set out in Schedule 4, Part 1.

gastrointestinal endoscopy means the use of a flexible endoscope with an internal lumen for the passage of an instrument to examine the upper or lower gastrointestinal tract.

interventional neuroradiology means the use of techniques to guide catheters or other instruments around the arteries or veins in the head, neck or spine to diagnose and treat diseases of the central nervous system, head, neck or spine.

medical advisory committee, for a private health facility, means the medical advisory committee appointed for the facility under the Act, section 39.

minimum standards for intensive care units means the *Minimum Standards for Intensive Care Units* published by the College of Intensive Care Medicine of Australia and New Zealand and last reviewed in 2016.

overnight accommodation standards means the standards set out in Schedule 4, Part 2.

psychedelic-assisted therapy—

- (a) means psychotherapy involving—
 - (i) the use of N, α -dimethyl-3,4-(methylenedioxy)phenylethylamine (MDMA) for the treatment of post-traumatic stress disorder, or
 - (ii) the use of psilocybin for the treatment of treatment-resistant depression, and
- (b) does not include psychotherapy involving the use of a Schedule 9 substance authorised under the *Drug Misuse and Trafficking Act 1985*, section 25(4)(a).

rapid opioid detoxification—see Schedule 1, section 16(2).

relevant health services organisation has the same meaning as in the *Health Administration Act 1982*, Part 2A.

sedation and analgesia guidelines means the *Guideline on procedural sedation* published by the Australian and New Zealand College of Anaesthetists in 2023.

the Act means the *Private Health Facilities Act 2007*.