

## EXPLANATORY STATEMENT

### *HEALTH INSURANCE ACT 1973*

#### *Health Insurance (Quality Assurance Activity – Alice Springs Public Hospital Morbidity and Mortality Program) Declaration 2021*

#### **Authority**

The *Health Insurance (Quality Assurance Activity – Alice Springs Public Hospital Morbidity and Mortality Program) Declaration 2021* is a declaration made under subsection 124X(1) of the *Health Insurance Act 1973* (the Act).

#### **Purpose of the Instrument**

Part VC of the Act creates a scheme to encourage efficient quality assurance activities in connection with the provision of health services. Those activities help to ensure the quality of health services that are funded by the Government, including through the public hospital services. The scheme encourages participation in such activities by protecting certain information from disclosure, and also by providing some protection from civil liability to certain persons engaged in those activities in good faith, in respect of those activities.

Subsection 124X(1) of the Act provides that the Minister may, by legislative instrument, declare a quality assurance activity described in the declaration to be a quality assurance activity to which Part VC applies.

The purpose of the *Health Insurance (Quality Assurance Activity – Alice Springs Public Hospital Morbidity and Mortality Program) Declaration 2021* (the Declaration) is to declare the Alice Springs Public Hospital *Morbidity and Mortality Program* (MMP) activity to be a quality assurance activity to which Part VC of the Act applies.

The Declaration is a legislative instrument for the purposes of the *Legislation Act 2003*. The Declaration commences on the day after registration on the Federal Register of Legislation.

The activity is undertaken by the Alice Springs Public Hospital, Central Australian Health Service. The quality assurance activity described in this declaration applies only to health services provided in Australia. The MMP is operated by the Alice Springs Public Hospital under the auspices of the Central Australian Health Service (CAHS), Northern Territory (NT) Department of Health. The presentations in the MMP are consultant-led and attended by senior clinicians in each department. Recommendations from the MMP are recorded in the hospital recommendations register which is overseen by the clinical governance committee.

Morbidity and mortality (M&M) meetings are a regular feature of hospital operations. Most jurisdictions in Australia permit M&M meetings to operate under qualified privilege. However, there is currently no legislation in NT to cover the Alice Springs Public Hospital MMP and accordingly, it is open for Part VC of the Act to apply to the Alice Springs Public Hospital MMP. Pursuant to s124ZC of the Act, Part VC of the Act will continue to apply to the Alice Springs Public Hospital MMP only to the extent to which any relevant NT law would not otherwise apply.

Under the MMP, the team(s) responsible for patients' clinical care meet to discuss the events and decisions that contributed to a complication or death. MMP meetings provide a forum for the sharing of clinical cases which have resulted in complications or death in an open non-punitive environment with the goals of learning and improvement of patient safety. The MMP meetings involve more than one clinical department at the Alice Springs Public Hospital and focus on salient cases. Heads of department conjointly with the director of clinical and medical services will select these cases.

The Alice Springs Public Hospital MMP has the following key components:

- (a) introduction of a consistent and standardised reporting method for M&M meetings;
- (b) standardisation of M&M meetings to include three key features, namely the event, the complications and the outcomes and recommendations;
- (c) identification of clinical and systems factors that contribute to patient M&M;
- (d) hospital wide discussion with input from a variety of clinical departments and subspecialties;
- (e) clear identification of a senior clinician and department who take responsibility for following up on recommendations recorded in the hospital recommendations register; and
- (f) recording of recommendations in the Alice Springs Public Hospital recommendations register, which is overseen by the clinical governance committee;
- (g) the Alice Springs Public Hospital intends to publish the following information from the MMP in the CAHS Annual Report:
  - (i) the number of M&M meetings held in the previous 12 months;
  - (ii) the number of cases discussed in M&M meetings;
  - (iii) a summary of themes that contribute to M&M;
  - (iv) the number of recommendations made and the number of recommendations accepted by the CAHS; and
  - (v) a description of issues raised during M&M meetings and any recommendations that arise from assessing safety and quality systems at the Alice Springs Hospital. These recommendations will be categorised according to the National Safety and Quality Health Service Standards.

Access to identifying information is limited to the Quality Assurance coordinator, the Executive Director of Medical and Clinical Services and Northern Territory Department of Health Legal Services. Limited access may be granted to authorised persons. Access limitations will be utilised to allow authorised individuals such as the lead reviewer/case presenter to review confidential files for the purpose of the quality assurance activity.

Details of the Declaration are set out in **Attachment A**.

## **CONSULTATION**

The Alice Springs Public Hospital, as the applicant for declaration of the activity and the Australian Commission on Safety and Quality in Health Care was consulted in relation to the content of the Declaration.

The Declaration will not result in any direct or substantial indirect effect on business.

**Section 1 – Name**

This section provides for the Declaration to be referred to as the *Health Insurance (Quality Assurance Activity – Alice Springs Public Hospital Morbidity and Mortality Program) Declaration 2021* (the Declaration).

**Section 2 – Commencement**

This section provides that the Declaration commences on the day after it is registered on the Federal Register of Legislation.

**Section 3 – Authority**

This section provides that the Declaration is made under subsection 124X(1) of the *Health Insurance Act 1973*.

**Section 4 – Repeal**

This section provides that the Declaration will be repealed when it ceases to be in force in accordance with subsection 124X(4) of the *Health Insurance Act 1973*.

Subsection 124X(4) of the *Health Insurance Act 1973* provides that a declaration of a quality assurance activity ceases to be in force at the end of 5 years after it is signed, unless sooner revoked.

**Section 5 – Schedule**

This section provides that the activity described in the Schedule is declared to be a quality assurance activity to which Part VC of the *Health Insurance Act 1973* applies.

**Schedule 1 – Description of quality assurance activity**

The Schedule provides that the name of the activity is ‘Alice Springs Public Hospital Morbidity and Mortality Program’. It describes the quality assurance activity as an activity involving regular meetings in which the care pathway resulting in a complication or death is discussed by the people involved in the patient’s care.

## **Statement of Compatibility with Human Rights**

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

*Health Insurance (Quality Assurance Activity – Alice Springs Public Hospital Morbidity and Mortality Program) Declaration 2021*

This Declaration is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

### **Overview of the Legislative Instrument**

The *Health Insurance (Quality Assurance Activity – Alice Springs Public Hospital Morbidity and Mortality Program) Declaration 2021* (the Declaration) declares the Alice Springs Public Hospital Morbidity and Mortality Program to be a quality assurance activity to which Part VC of the *Health Insurance Act 1973* (the Act) applies. Information known solely as the result of conducting the activity, or documents created solely for the purposes of the activity, will be covered by qualified privilege.

### **Human rights implications**

This Declaration engages the right to health as set out in Article 12 of the International Covenant on Economic, Social and Cultural Rights by assisting with the progressive realisation by all appropriate means of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

The qualified privilege scheme established by Part VC of the Act is aimed at encouraging participation in quality assurance activities that help ensure the highest possible health care standards are maintained. The quality assurance activity described in this Declaration will provide participants with a greater degree of confidence and security that their participation is for the benefit of improving clinical management and delivery of care within Alice Springs Public Hospital.

This Declaration also engages, but does not limit, the right to privacy as contained in Article 17 of the International Covenant on Civil and Political Rights by involving the collection, storage, security, use, disclosure or publication of personal information. Data collected as part of the quality assurance activity will be subsequently de-identified to ensure that no individual or individuals are identified prior to analysis or disclosure of the information. The Alice Springs Public Hospital will publish a range of information relating to clinical and system factors that contribute to patient morbidity and mortality in the Central Australian Health Service Annual Report.

### **Conclusion**

This Declaration is compatible with human rights as it promotes the right to health and does not limit the right to privacy.

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