

1998

**THE LEGISLATIVE ASSEMBLY FOR
THE AUSTRALIAN CAPITAL TERRITORY**

INTOXICATED PERSONS (CARE AND PROTECTION) ACT 1994

CARE AND PROTECTION OF INTOXICATED PERSONS STANDARD

EXPLANATORY STATEMENT

INSTRUMENT NO. 19 OF 1998

A handwritten signature in black ink, appearing to read 'Kate Carnell', is centered on the page.

**(Circulated by authority of Kate Carnell MLA
Minister for Health and Community Care)**

1998

THE LEGISLATIVE ASSEMBLY AUSTRALIAN CAPITAL TERRITORY

INTOXICATED PERSONS (CARE AND PROTECTION) ACT 1994

CARE AND PROTECTION OF INTOXICATED PERSONS STANDARD

INSTRUMENT NO. 19 OF 1998

Under section 31 of the *Intoxicated Persons (Care and Protection) Act 1994*, I make the attached Standard.

DATE:

14/1/98



Kate Carnell MLA
Minister for Health and Community Care

CARE AND PROTECTION OF INTOXICATED PERSONS STANDARD

1. Title

This Standard is called the Care and Protection of Intoxicated Persons Standard.

2. Commencement

The provisions of this standard take effect on notification of the Standard in the *Gazette*.

3. Purpose

This Care and Protection of Intoxicated Persons Standard establishes minimum requirements for the manner in which a person licensed to provide a caring service, pursuant to the *Intoxicated Persons (Care and Protection) Act 1994* (“the Act”), shall provide that service.

The principal purpose of setting these minimum requirements is to maintain the dignity and privacy, and protect the health and safety, of persons who are admitted to a place licensed to provide a caring service.

The requirements are also intended to protect the health and safety of carers working in such places.

4. Interpretation

In this Standard:

- (a) the terms “carer”, “licensed place”, “licensee”, “manager” and “responsible person” have the same meaning as those terms have under the Act; and
- (b) “client” means an intoxicated person who is released from custody under section 4 of the Act into the care of the manager of a licensed place, or an intoxicated person presenting to a licensed place whether referred by another person or organisation or not, whether or not the person is admitted to the licensed place.

5. Respect for clients to be observed

Protocols of Care to be in place

5.1 A licensee or manager of a licensed place shall ensure that protocols for the treatment and care of intoxicated persons are established and maintained.

Clients to be treated with respect and dignity

5.2 A licensee or manager of a licensed place shall ensure that a carer at a licensed place:

- (a) attempts to ascertain from a client the name by which he or she prefers to be addressed and, where a client indicates his or her preferred name, shall require the carer to use that name in addressing, or referring to, the client;
- (b) discourages a client in an intoxicated state from behaving in a way which may cause him or her embarrassment when he or she is sober;
- (c) where a client requires assistance in bathing, dressing or using toilet facilities, provides such assistance with discretion and, where possible, is a carer of the same sex as the client;
- (d) enables a client, where he or she does not require assistance to bathe, dress or use toilet facilities, to carry out these activities in private, provided that enabling the client to carry out these activities unsupervised or unobserved would not place the client at risk;
- (e) where clothing is provided to a client, ensures the clothing is clean, in good order and appropriate having regard to the size, sex and age of the client;
- (f) advises the client that a telephone is available for use by the client and, where the client wishes to make a local telephone call enables the client to make at least one such call free of charge;
- (g) where searching a client in accordance with the provisions of the Act, does so with discretion and is, where possible, a carer of the same sex as the client; and
- (h) makes all other reasonable efforts to treat each client with respect and dignity, and in compliance with the relevant protocols of care in operation at the licensed place.

6. Suitability, safety and security of facilities at licensed place

Design of place to maintain privacy

6.1 Subject to paragraph 6.2(b), a licensee shall ensure that the design of a licensed place enables a client to bathe, dress and use toilet facilities in private.

Facilities to be suitable for use by and, enable observation of, clients

6.2 A licensee shall ensure that facilities at a licensed place:

- (a) are suitable for use by a client who may have a disability whether or not this is due to his or her intoxicated state;
- (b) enable a carer to supervise and lawfully observe clients, to the extent necessary for the purposes of the Act.

Facilities and equipment to be maintained, cleaned and safe for use

6.3 A licensee or the manager of a licensed place shall ensure that a licensed place, including facilities and equipment at the place, is adequately maintained and cleaned and safe for use by carers and clients and, in particular, that:

- (a) carers are aware of, and observe, procedures for minimising and monitoring the spread of infection or infestation;
- (b) the ventilation of the premises prevents lingering unpleasant odours;
- (c) if spillage of blood or other body substances occurs, any area of the premises affected is cleaned before the area is further used by clients, carers or other persons;
- (d) where a client uses a bed at the place, the linen provided is clean;
- (e) bedding, including pillows and mattresses is coated with plastic and is cleaned between use by different clients;
- (f) sharps containers are provided for disposal of items such as hypodermic needles and syringes.

Smoking not permitted

6.4 In accordance with the provisions of the *Smoke-free Areas (Enclosed Public Places) Act 1994*, the *Occupational Health and Safety Act 1989*, and the Code of Practice for Smoke-free Workplaces (came into effect 25 May 1997), a licensee or the manager of a licensed place shall not permit the smoking of tobacco in the licensed place.

Security for persons and property to be adequate

6.5 A licensee shall ensure that:

- (a) a licensed place provides adequate personal security for carers and clients;
- (b) there are adequate facilities at a licensed place for the secure storage of the property of carers and articles in possession of clients; and
- (c) a Memorandum of Understanding is in place between the Police and the licensee which, where not provided for by statute, establishes the procedures to be followed where police presence or notification may be necessary, particularly in terms of refusal of admission to the shelter, removal of a client from the shelter and the discovery of prohibited substances or weapons on a client; and

a licensee or the manager of a licensed place shall ensure that:

- (d) safe work practices are observed in a licensed place, including procedures for responding to the violent or aggressive behaviour of clients, such as the use of duress alarms or other means of contacting police;
- (e) where a client's behaviour is such that it threatens the safety or security of persons or property at a licensed place, police intervention is sought; and
- (f) work practices at a licensed place are monitored and reviewed annually for the purpose of ensuring that they are effective in protecting the health and safety of clients and carers.

Safekeeping of articles in possession of clients

6.6 A licensee or the manager of a licensed place shall ensure that:

- (a) any articles given to a carer for safekeeping are stored securely;
- (b) where any articles given by a client to a carer, for safekeeping, are dealt with in anyway prior to their return to the client a record is made of that dealing with the articles;
- (c) while a client is at a licensed place he or she has access to articles he or she has given to a carer for safekeeping, except where it appears to the manager that access to that article could reasonably be taken to threaten the safety or security of any person (including the client) or property at the licensed place;

(d) any article given by a client to a carer, for safekeeping is:

(i) where the client is able and willing to accept the return of the articles, returned to the client prior to his or her departure from the place;

(ii) where the client is being removed from the licensed place to a hospital by ambulance, and the client is unable or unwilling to accept the return of the articles, given to an ambulance officer to be held on behalf of the client;

(iii) where the client is being removed from the licensed place to police custody, and the client is unable or unwilling to accept the return of the articles, given to a police officer to be held on behalf of the client; or

(iv) where the client is being removed from the licensed place other than by ambulance or by the police and the client is unable or unwilling to accept the return of the articles; given to a responsible person prior to the client leaving the place; and

~~(e) any article, other than an article which has no reasonable value, which is not returned to a client or given to another person in accordance with paragraph 6.6(g) prior to the client's departure from a licensed place, or which is not subsequently collected by the client, is retained for 28 days from the day on which the client left the place, after which period it is handed over to the police.~~

Accidents to be reported

6.7 Where a carer at a licensed caring place becomes aware of an accident at the place or an incident in which a person's behaviour is abusive or harmful or injurious to that person or another, or results in damage to property, at the place, the carer shall make a written report of the details of the accident or incident, including details of any action taken in response to the accident or incident, and provide the report to the manager.

Insurance to be held

6.8 A licensee of a licensed place shall ensure that appropriate policies of insurance are taken out and maintained. Appropriate insurance shall include, at a minimum, public liability to the value of \$5 million, workers' compensation, personal accident insurance for volunteers, comprehensive insurance for vehicles and comprehensive insurance for buildings and contents.

7. Care and Monitoring of clients

Admission of clients

7.1 A licensee or the manager of a licensed place shall ensure that, on the admission of a client to the place, a carer:

- (a) observes and records whether the client is breathing normally and is conscious;
- (b) attempts to obtain a recent alcohol and drug history for the client, from the client or any person present who may be able to assist in this regard;
- (c) attempts to ascertain from the client whether the condition of the client is the result of intoxication alone or may be attributed to injury or some other physical or mental condition, for example, diabetes or head injury; and
- d) where it appears to the carer that a client is under the age of 18 years, makes reasonable attempts to ascertain the age of the client and, where the carer has reason to believe that the client is under the age of 18 years, complies with sections 102 and 103(1) of the *Children's Services Act 1986*

Monitoring and care of client following admission

7.2 A licensee or the manager of a licensed place shall ensure that the following requirements relating to the care of a client are complied with:

- (a) the breathing of the client is observed and, where the client is asleep, the extent to which the client is able to be roused is checked, at least every 15 minutes, following admission to a licensed place;
- (b) if the client is unsteady on his or her feet, or otherwise has difficulty in moving, he or she is suitably assisted;
- (c) medical attention is sought for the client if either the client requests such attention or a carer believes the attention to be required, particularly having regard to:
 - (i) symptoms inconsistent with the client being intoxicated alone (including symptoms of withdrawal);
 - (ii) the client becoming, or being, where the client is asleep, unable to be roused;
 - (iii) the client experiencing difficulty breathing or having irregular breathing;
 - (iv) the client complaining of experiencing pain; and
 - (v) the client demonstrating behaviour which may result in him or her causing injury to himself or herself or to others; and

- (d) male and female clients are cared for in areas which are separated so as to ensure that clients in one area are unable to observe clients in the other area.

Information to be provided and referral to be offered to clients

7.3 A licensee or the manager of a licensed place shall ensure that a client is:

- (a) given access to information on safer alcohol and other drug use; and
- (b) offered referral to other services, including alcohol and drug treatment services, as appropriate.

8. Skills, qualifications and training of carers

Skills and qualifications of carers

8.1 A licensee shall ensure that a carer employed at a licensed place meets the standards specified in the National Competency Standards for Drug and Alcohol Workers and:

- (a) is competent to identify a client who is intoxicated or experiencing withdrawal and to manage a client who is intoxicated;
- (b) is competent to identify when a client:
- (i) is experiencing difficulty in breathing; or
 - (ii) is, or is becoming, where the client is asleep, unable to be roused;
 - (iii) is competent to obtain and record details of a drug and alcohol history;
 - (iv) has undertaken training in:
 - referral protocols with the police, hospitals and other relevant agencies; and
 - the provisions and requirements of the Act;
- (c) is aware of ACT community and health services available for persons with alcohol and other drug related problems; and
- (d) in relation to a client under the age of 18 years, is aware of any obligations which he or she may have pursuant to the *Children's Services Act 1986*.

Education and training of carers to be encouraged

8.2 A licensee shall encourage carers at a licensed place to participate in continuing education and training related to the work performed by those carers at that place.

9. Records

Records required to be kept

9.1 A licensee or the manager of a licensed place shall ensure that a carer makes a record of details of the following, in relation to each client:

- (a) information obtained pursuant to the requirements of subclause 7.1;
- (b) a client's condition, as monitored at least every 15 minutes, in accordance with paragraph 7.2(a);
- (c) behavioural observations of a client;
- (d) any circumstances in which a client is provided with physical assistance by a carer, in which a carer seeks medical assistance on behalf of a client, or in which police intervention is sought due to the behaviour of a client;
- (e) any report made pursuant to subclause 6.7, concerning a client; and
- (f) any consent given by a client to the release of information about that client.

Records to be retained

9.2 A licensee shall ensure that any records relating to a client at the place are retained for a period of not less than 7 years from the date when the client was last admitted to the place.

9.3 A licensee shall ensure that records of training relating to carers are kept and retained for a period not less than 7 years from the conclusion of the training to which a record relates and are updated not less than every 12 months.

10. Confidentiality of information

Use which may be made of information

10.1 A licensee or the manager of a licensed place shall ensure that information provided to, or obtained by, a carer, in relation to a client, is treated confidentially and, in particular, shall ensure that the information obtained in accordance with this standard, for the purposes of the Act, is not used for any other purpose unless:

- (a) the client has consented to the use of the information for that other purpose;
- (b) the licensee or manager believes on reasonable grounds that use of the information for that other purpose is necessary to prevent or lessen a serious and imminent threat to the life or health of the client or another person;

- (c) use of the information for that other purpose is required or authorised by or under law;
- (d) use of the information for that other purpose is reasonably necessary for enforcement of the criminal law or of a law imposing a pecuniary penalty, or for the protection of the public revenue; or
- (e) the purpose for which the information is used is directly related to the purpose for which the information was obtained.

Disclosure of information

10.2 A licensee or the manager of a licensed place shall ensure that information provided to, or obtained by, a carer, in relation to a client, is not disclosed to a person, body or agency (other than the client) unless:

- (a) the client is aware or was made aware that information of this type is usually passed to such a person, body or agency;
- (b) the client has consented to disclosure of the information;
- (c) the licensee or manager believes on reasonable grounds that the disclosure is necessary to prevent or lessen a serious and imminent threat to the life or health of the client or another person;
- (d) the disclosure is required or authorised by or under law; or
- (e) the disclosure is reasonably necessary for enforcement of the criminal law or of a law imposing a pecuniary penalty, or for the protection of the public revenue.

Security of information

10.3 A licensee or the manager of a licensed place shall ensure that a record of information provided to, or obtained by, a carer, in relation to a client is protected, by such security safeguards as it is reasonable in the circumstances to take, against unauthorised access, use, modification or disclosure, and against other misuse.