

AUSTRALIAN CAPITAL TERRITORY
HEALTH RECORDS (PRIVACY AND ACCESS) ACT 1997
DETERMINATION OF FEES
INSTRUMENT NO. 279 OF 2000

EXPLANATORY STATEMENT

The *Health Records (Privacy and Access) Act 1997* (the Act) came into force on 1 February 1998. Instrument No. 122 of 1998 set in place new fees in accordance with Part VI, Section 34 of the Act.

This instrument revokes Instrument No. 122 of 1998 and sets in place new fees in accordance with Part VI, Section 34 of the Act. The increases represent the fees effective, including GST, and come into effect on the date of gazettal. While the GST came into effect on 1 July 2000, the late gazettal of the instrument will have a minimal impact. As it currently stands, record keepers are required to remit one eleventh of the actual fee paid to the Tax Office.

The instrument also allows providers to recoup costs incurred for a service rendered by someone outside the provider's practice, when providing a copy of an image. Providers may be asked by consumers to provide a copy of an image where the cost to the provider of providing that image is considerably greater than \$11.00. An example would be in meeting the request for an angiogram, which may result in a cost of about \$2,000 to the provider. Dentists will take a number of x-rays in the course of their business but generally will not have the facilities to copy the film if a consumer requests it, and would have to pay for it to be done outside the practice. If a patient transfers to another provider, it is reasonable for the records of a copy or summary to be sent to the new provider. This is provided for under Privacy Principle 12 at no cost. However, if a consumer wants to obtain a copy from their treating practitioner for their own purposes, it is not reasonable for the provider to have to bear what would be a significant cost.

It is Section 34 of the Act that allows the Minister to determine fees under the Act. This determination sets in place fees for the following sections of the Act.

- Part II of the Act sets out 12 Privacy Principles. Principle 12 refers to fees which may be payable where a record keeper provides a copy or summary of a record to another provider.
- Section 13 of the Act outlines what a record keeper must do when a request for access is received. Section 13 (2) of the Act refers to fees payable for giving access to records.
- Section 13(5) sets out the ways a health service provider can comply with a request for access, including inspecting the record, receiving a copy of the record, or the production of written summary.
- Section 16(2) permits a record keeper to offer to discuss the health record with the consumer, where an exemption may be claimed for potential harm to the consumer.

The fees schedule balances the importance between ensuring that the fees do not become a barrier to access with the need to ensure that service providers, often in private business, receive reasonable reimbursement of the cost of providing access.

Dated this Thirteenth day of August 2000.

Michael Moore
Minister for Health and Community Care