

1995

AUSTRALIAN CAPITAL TERRITORY

INTOXICATED PERSONS (CARE AND PROTECTION) ACT 1994

**CARE AND PROTECTION OF INTOXICATED PERSONS
STANDARD**

Explanatory Statement

NO. 108 OF 1995

CARE AND PROTECTION OF INTOXICATED PERSONS STANDARD

Explanatory Statement

The Care and Protection of Intoxicated Persons Standard ("the Standard") is made pursuant to section 31 of the *Intoxicated Persons (Care and Protection) Act 1994* ("the Act") to establish minimum requirements for the manner in which a person licensed to provide a caring service, pursuant to the Act, shall provide that service.

The provisions of the Standard, other than paragraph 6.2(a), will commence upon notification of the Standard in the *Gazette*. Paragraph 6.2(a) will come into effect on 1 January 1996. The delayed commencement of this provision is to give persons licensed to provide a caring service time, where necessary, to modify facilities at the place where the service is provided so that the facilities comply with the Standard.

The principal purpose of the requirements is to maintain the dignity and privacy, and protect the health and safety, of persons 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.

The Standard imposes obligations on a licensee, that is, a person who is licensed under the Act to provide a caring service, and a manager of a licensed place. Failure to comply with the Standard may result in cancellation of the licence. The principal obligations created by the Standard are as described below.

Respect for clients

The Standard (*clause 5*) requires a licensee or manager to ensure that carers at a licensed place treat with respect intoxicated persons who are admitted to a licensed place and sets out a number of particular requirements in this regard.

Suitability, safety and security of facilities at a licensed place

A licensee is required to ensure that the design of a licensed place is suitable for use by intoxicated persons (*paragraph 6 2(a)*) While the design of the place should permit a person admitted to a licensed place ("a client") to attend to his or her toilet in private (*subclause 6 1*) the Standard also requires that lawful observation of a client for the purposes of the Act should be possible (*paragraph 6 2(b)*)

The Standard requires a licensee or the manager of a licensed place to ensure that facilities and equipment at the place are maintained, cleaned and safe for use by carers and clients (*subclause 6.3*).

The Standard requires a licensee to ensure that a licensed place provides adequate security for carers and clients and there are facilities at the place for the secure storage of their property. The licensee or manager of a licensed place is also required to ensure that safe working practices are observed in a licensed place and that working practices are monitored and reviewed (*subclause 6 5*).

Subclause 6.6 of the Standard sets out procedures to be followed in the safekeeping of a client's property at a licensed place.

Accidents at a licensed place are required to be reported by carers (*subclause 6.7*).

Care and monitoring of clients

The Standard sets out procedures relating to the care of clients. *Subclause 7.1* requires a licensee or the manager of a licensed place to ensure that on the admission of a client to the place a carer makes inquiries for the purpose of determining whether the client's condition may be attributable to factors other than alcohol or other drug induced intoxication. *Subclause 7 2* requires that a client's condition be monitored throughout the time he or she is at the licensed place and that medical attention is sought for a client where necessary or appropriate. In particular, it requires that a carer check every 15 minutes the extent to which a client who is asleep is capable of responding to stimulation

Clients are also required to be provided with information on safer alcohol and drug use and offered referral to other relevant services (*subclause 7.3*)

Skills, qualifications and training of carers

A licensee is required to ensure that carers at a licensed place have appropriate skills and training to carry out their duties in accordance with the Standard(*subclause 8.1*)

Records

The Standard requires that records be kept in relation to particular information which may be acquired for the purposes of the Act (*subclause 9.1*) and in relation to the training of carers (*subclause 9.3*).

Confidentiality of information

The Standard requires a licensee to ensure that information provided to, or obtained by, a carer, in relation to a client, is treated confidentially. The provisions concerning confidentiality of information are consistent with the relevant privacy principles of the Commonwealth *Privacy Act 1988*.