



LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY

Economic Policy Scrutiny Committee

**Inquiry into the Medical Services
Amendment Bill 2018**

March 2019

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Chair's Preface

This report details the Committee's findings regarding its examination of the Medical Services Amendment Bill 2018.

The primary purpose of this Bill is to enable the Minister to determine fees and charges consistent with the Commonwealth *Health Insurance Act 1973* and the National Health Reform Agreement 2012. These fees and charges are for defined groups of patients and are reviewed on an annual basis by the Northern Territory Department of Health.

The Bill also modernises the language, expands the definition of 'medical service', provides for retrospective validation of fees determined by the Minister, validates previously gazetted fees, broadens the definition of medical services and expands the circumstances under which costs can be recovered for medical transport.

Two submissions were received by the Committee both of which made suggestions for minor changes. After consideration of the evidence received, including advice from the Minister for Health, the Committee is satisfied that all issues have been adequately addressed and has recommended that the Assembly pass the Bill.

A handwritten signature in black ink that reads "Tony Sievers". The signature is written in a cursive style and is underlined with a single horizontal line.

Mr Tony Sievers MLA

Chair

Committee Members

	Tony Sievers MLA Member for Brennan	
	Party:	Territory Labor
	Committee Membership	
	Standing:	House, Public Accounts
	Sessional:	Economic Policy Scrutiny
	Chair:	Economic Policy Scrutiny
	Kate Worden MLA Member for Sanderson	
	Party:	Territory Labor
	Parliamentary Position	Government Whip
	Committee Membership	
	Standing:	Public Accounts
	Sessional:	Economic Policy Scrutiny
	Gary Higgins MLA Member for Daly	
	Party:	Country Liberals
	Parliamentary Position:	Leader of the Opposition
	Committee Membership	
	Standing:	House, Standing Orders, Members' Interests
	Sessional:	Economic Policy Scrutiny
	Lawrence Costa MLA Member for Arafura	
	Party:	Territory Labor
	Committee Membership	
	Sessional:	Economic Policy Scrutiny
	Select:	Northern Territory Harm Reduction Strategy for Addictive Behaviours
		Yingiya Mark Guyula MLA Member for Nhulunbuy
Party:		Independent
Committee Membership		
Sessional:		Economic Policy Scrutiny
<p>On 1 February 2019, Member for Fong Lim, Mr Jeff Collins MLA, was discharged from the Committee and replaced by the Member for Sanderson, Mrs Kate Worden MLA.</p> <p>Member for Sanderson, Ms Worden MLA, was appointed to the Committee after the Medical Services Amendment Bill was referred to the Committee and did not participate in the full consideration process for this Bill.</p>		

Committee Secretariat

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Acknowledgments

The Committee acknowledges the organisations that have made written submissions to this inquiry and the Minister for Health for providing comments on concerns raised in submissions.

Terms of Reference

Sessional Order 13

Establishment of Scrutiny Committees

- (1) Standing Order 178 is suspended.
- (2) The Assembly appoints the following scrutiny committees:
 - (a) The Social Policy Scrutiny Committee
 - (b) The Economic Policy Scrutiny Committee
- (3) The Membership of the scrutiny committees will be three Government Members and one Opposition Member nominated to the Speaker in writing by the respective Whip and one non-party aligned Member to be appointed by motion.
- (4) The functions of the scrutiny committees shall be to inquire and report on:
 - (a) any matter within its subject area referred to it:
 - (i) by the Assembly;
 - (ii) by a Minister; or
 - (iii) on its own motion.
 - (b) any bill referred to it by the Assembly;
 - (c) in relation to any bill referred by the Assembly:
 - (i) whether the Assembly should pass the bill;
 - (ii) whether the Assembly should amend the bill;
 - (iii) whether the bill has sufficient regard to the rights and liberties of individuals, including whether the bill:
 - (A) makes rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review; and
 - (B) is consistent with principles of natural justice; and
 - (C) allows the delegation of administrative power only in appropriate cases and to appropriate persons; and
 - (D) does not reverse the onus of proof in criminal proceedings without adequate justification; and
 - (E) confers powers to enter premises, and search for or seize documents or other property, only with a warrant issued by a judge or other judicial officer; and
 - (F) provides appropriate protection against self-incrimination; and
 - (G) does not adversely affect rights and liberties, or impose obligations, retrospectively; and

- (H) does not confer immunity from proceeding or prosecution without adequate justification; and
 - (I) provides for the compulsory acquisition of property only with fair compensation; and
 - (J) has sufficient regard to Aboriginal tradition; and
 - (K) is unambiguous and drafted in a sufficiently clear and precise way.
- (iv) whether the bill has sufficient regard to the institution of Parliament, including whether the bill:
- (A) allows the delegation of legislative power only in appropriate cases and to appropriate persons; and
 - (B) sufficiently subjects the exercise of a delegated legislative power to the scrutiny of the Legislative Assembly; and
 - (C) authorises the amendment of an Act only by another Act.
- (5) The Committee will elect a Government Member as Chair.
- (6) Each Committee will provide an annual report on its activities to the Assembly.

Adopted 24 August 2017

Recommendations

Recommendation 1

The Committee recommends that the Legislative Assembly pass the Medical Services Amendment Bill 2018.

1 Introduction

Introduction of the Bill

1.1 The Medical Services Amendment Bill (the Bill) was introduced into the Legislative Assembly by the Minister for Health, the Hon Natasha Fyles MLA, on 28 November 2018. The Assembly subsequently referred the Bill to the Economic Policy Scrutiny Committee for inquiry and report by Tuesday 12 March 2019.¹

Conduct of the Inquiry

1.2 On 30 November 2018 the Committee called for submissions by 30 January 2019. The call for submissions was advertised via the Legislative Assembly website, Facebook, Twitter feed and email subscription service. In addition, the Committee directly contacted a number of individuals and organisations.

1.3 As noted in Appendix A, the Committee received two submissions to its inquiry and sought advice from the Minister for Health regarding an issue raised in one of the submissions.

Outcome of Committee's Consideration

1.4 Sessional order 13(4)(c) requires that the Committee after examining the Bill determine:

- (i) whether the Assembly should pass the bill;
- (ii) whether the Assembly should amend the bill;
- (iii) whether the bill has sufficient regard to the rights and liberties of individuals; and
- (iv) whether the bill has sufficient regard to the institution of Parliament.

1.5 Following examination of the Bill, and consideration of the evidence received, the Committee is of the view that the Legislative Assembly should pass the Bill.

Recommendation 1

The Committee recommends that the Legislative Assembly pass the Medical Services Amendment Bill 2018.

Report Structure

1.6 Chapter 2 provides an overview of the policy objectives of the Bill and the purpose of the Bill as contained in the Explanatory Statement.

1.7 Chapter 3 considers the main issues raised in evidence received.

¹ Hon Natasha Fyles MLA, Minister for Health, Parliamentary Record, *Debates Day 2 - 28 November 2018*, pp. 1-2, <http://hdl.handle.net/10070/305254>

2 Provisions of the Bill

Background to the Bill

2.1 Under the Australian healthcare system, jurisdictions can ‘determine charges for services provided to defined groups of patients’.² The Northern Territory Department of Health reviews fees and charges for these patients on an annual basis in order to take into account changes in costs, pricing structure and new services and to ensure correspondence with fee and policy revisions made by the Commonwealth. These changes are updated through the Medical Services Act (NT).

Purpose and Overview of the Bill

2.2 As noted in the Explanatory Statement, the purpose of the Bill is to ‘provide the Minister with sufficient power to determine fees and charges consistent with the Commonwealth *Health Insurance Act 1973* and the National Health Reform Agreement 2012’.³ The Bill also:

- Modernises the language and makes definitions consistent with current legislation such as the Health Practitioner Regulation National Law Act and the Public Sector Employment and Management Act;
- Expands the definition of ‘medical service’ to accommodate changes in clinical care models and emerging technologies and to allow the supply of goods or services that support the provision of medical services;
- Provides for retrospective validation of fees determined by the Minister;
- Removes the prescriptive nature of how medical services are defined and who the Minister is able to determine medical services fees for;
- Repeals the limiting circumstances related to cost recovery for medical transport; and
- Validates previously gazetted fees.⁴

² Hon Natasha Fyles MLA, Minister for Health, Parliamentary Record, Debates Day 2 - 28 November 2018, p.1, <http://hdl.handle.net/10070/305254>

³ *Explanatory Statement*, Medical Services Amendment Bill 2018 (Serial 75), p. 1, <https://parliament.nt.gov.au/committees/EPSC/75-2018>.

⁴ Fyles, Parliamentary Record, Debates Day 2 - 28 November 2018, pp. 1-2 <http://hdl.handle.net/10070/305254>.

3 Examination of the Bill

Introduction

- 3.1 The two submissions were received both of which recommended minor amendments.
- 3.2 Northern Territory PHN supported the Bill but commented that the term 'nursing home' is no longer considered appropriate and suggested that the term 'Aged Care Facility', or something similar, would be more in line with the Bill's intent to modernise the language of the Act.
- 3.3 The Council on the Ageing (COTA) suggested a number of minor amendments, some of which relate to sections of the Act that are not being amended by the Bill and are, therefore, out of scope. The Committee reviewed the comments relating to the Bill but did not consider that any changes to the Bill were warranted.

Substituting the term 'aged care facility' for 'nursing home'

- 3.4 The Committee sought clarification from the Minister for Health regarding the feasibility of substituting the term 'aged care facility' for 'nursing home' and was referred to advice received from the Office of the Parliamentary Counsel which noted that:

The Long Title of the Medical Services Amendment Bill only allows amendments to the *Medical Services Act* while the term 'Nursing Home' is referenced within 23 other Northern Territory Acts and subordinate legislation, across a range of portfolios.

For consistency, the most appropriate approach to update this terminology is a comprehensive review.⁵

- 3.5 The Minister further advised that a request has been made to the Department of the Attorney-General and Justice to review the terminology through the Statute Law Revision Bill process.⁶

Committee's Comments

- 3.6 The Committee is satisfied with the Minister's response.

⁵ Hon. Natasha Fyles, Minister for Health, Response to Written Questions from the Committee, p. 1, <https://parliament.nt.gov.au/committees/EPSC/75-2018>.

⁶ Hon. Natasha Fyles, Minister for Health, Response to Written Questions from the Committee, p. 1, <https://parliament.nt.gov.au/committees/EPSC/75-2018>.

Appendix A: Submissions Received

1. Northern Territory PHN
2. Council on the Ageing (COTA)

Note: Copies of submissions are available at:

<https://parliament.nt.gov.au/committees/EPSC/75-2018>

Bibliography

Economic Policy Scrutiny Committee, Terms of Reference, p. 2,

<https://parliament.nt.gov.au/committees/EPSC>

Explanatory Statement, Medical Services Amendment Bill 2018 (Serial 75), p. 1,

<https://parliament.nt.gov.au/committees/EPSC/75-2018>

Health Practitioner Regulation National Law Act 2009 (QLD)

Hon Natasha Fyles MLA, Minister for Health, Parliamentary Record, Debates Day 2, 28 November 2018, <http://hdl.handle.net/10070/305254>

Hon. Natasha Fyles, Minister for Health, Response to Written Questions from the Committee, p. 1, <https://parliament.nt.gov.au/committees/EPSC/75-2018>

Medical Services Act 1982 (NT)

Medical Services Amendment Bill 2018