

TITLE 41

PUBLIC HEALTH, SAFETY AND WELFARE

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CHAPTER 1

Health Services Administration

SECTIONS

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§ 101. Duties of director of Health Services generally.

(1) The director of Health Services shall either personally or by his duly authorized representatives maintain and improve health and sanitary conditions, minimize and control communicable disease, establish standards of medical and dental care and practice, encourage scientific investigation in the field of health, and supervise and administer all Government-owned hospitals, sanitariums, clinics, dispensaries, and such other medical and dental facilities as are or may be established throughout the Federated States of Micronesia.

(2) As used in this title “Director of Health Services” means the Secretary of Human Resources or his designee.

Source: TT Code 1966 § 611; TT Code 1970, 63 TTC 2; TT Code 1980, 63 TTC 2; PL 5-21 § 5.

Cross-reference: FSM Const., art. IX, § 2(r), as amended, states as follows:

Section 2. The following powers are expressly delegated to Congress:

...

(r) to promote education and health by setting minimum standards, coordinating state activities relating to foreign assistance, providing training and assistance to the states and providing support for post-secondary educational programs and projects.

...

FSM Const., art. XIII, § 1 states as follows:

Section 1. The national government of the Federated States of Micronesia recognizes the right of the people to education, health care, and legal services and shall take every step reasonable and necessary to provide these services.

The provisions of the Constitution are found in Part I of this code.

Case annotations:**Professional Services Clause**

The Constitution vests the nat'l gov't with power to act concerning health care and may place some affirmative health care obligations on it. *Manahane v. FSM*, 1 FSM R. 161, 172 (Pon. 1982).

Primary responsibility, perhaps even sole responsibility, for affirmative implementation of the Professional Services Clause, FSM Const. art. XIII, § 1, must lie with Congress. *Carlos v. FSM*, 4 FSM R. 17, 29 (App. 1989).

The Professional Services Clause of the Constitution demands that when any part of the nat'l gov't contemplates action that may be anticipated to affect the availability of education, health care or legal services, the nat'l officials involved must consider the right of the people to such services and make a reasonable effort to take "every step reasonable and necessary" to avoid unnecessarily reducing the availability of the services. *Carlos v. FSM*, 4 FSM R. 17, 30 (App. 1989).

Since the Constitution's Professional Services Clause is a promise that the nat'l gov't will take every step "reasonable and necessary" to provide health care to its citizens, a court should not lightly accept a contention that 6 FSMC 702(4), which creates a \$20,000 ceiling of governmental liability, shields the gov't against a claim that FSM gov't negligence prevented a person from receiving necessary health care. *Leeruw v. FSM*, 4 FSM R. 350, 362 (Yap 1990).

§ 102. Health regulations.

(1) The director of Health Services shall, subject to the approval of the High Commissioner, have powers to make such regulations as he deems necessary for the public health and safety respecting:

(a) nuisances, foul and noxious odors, gases or vapors, water in which mosquitoes breed or may breed, sources of filth, and causes of sickness or disease, within the respective districts of the Territory, and on board any vessel;

(b) adulteration and misbranding of food, drugs, or milk;

(c) location, air space, ventilation, sanitation, drainage, sewage disposal, and other health conditions of buildings, construction projects, excavations, pools, watercourses, areas, and alleys;

(d) privy vaults and cesspools and other means of human excreta disposal;

(e) fish and fishing;

(f) interments and dead bodies;

(g) disinterments of dead human bodies, including the exposing, disturbing, or removing of such bodies from their place of burial or the opening, removing, or disturbing after due interment of any receptacle, coffin, or container holding human remains or a dead human body or a part thereof and the issuance and terms of permits for the aforesaid disinterments of dead human bodies;

(h) cemeteries and burying grounds;

(i) laundries, and the laundering and sterilization of all articles of linen and uniforms used by or in the following businesses or professions: barbershops, manicure shops, beauty parlors, restaurants, soda fountains, hotels, rooming and boarding houses, bakeries, butcher shops, public bathhouses, midwives, masseurs, and others in similar calling, public or private hospitals, and canneries and bottling works where food or beverages are canned or bottled for public consumption or sale; provided that nothing contained in this section shall be construed as authorizing the prohibiting of such laundering and sterilization by those conducting any of such businesses or professions where such laundering or sterilization is done in an efficient and sanitary

manner;

- (j) hospitals, maternity homes, convalescent homes, children's boarding homes, and old folks' homes;
- (k) hotels, roominghouses, lodginghouses, apartment houses, and tenements;
- (l) laboratories;
- (m) quarantine of communicable disease and inspection;
- (n) poisons, air conditioning, and ventilating; fumigation;
- (o) places of business, industry, employment, commerce, and processes, materials, tools, machinery, and methods of work done therein, and places of public gathering, recreation, or entertainment;
- (p) any restaurant, theater, market, stand, shop, store, factory, buildings, wagon, vehicle, or place where any food, drug, or cosmetic is manufactured, compounded, processed, extracted, prepared, stored, distributed, sold, offered for sale, or offered for human consumption or use;
- (q) foods, drugs, and cosmetics, and the manufacture, compounding, processing, extracting, preparing, storing, selling, and offering for sale or for consumption or use of any food, drug, or cosmetic;
- (r) devices, including their components, parts, and accessories, intended
 - (i) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man, or
 - (ii) to affect the structure or any function of the body of man;
- (s) sources of ionizing radiation, radiation protection;
- (t) medical examination, vaccination, revaccination, and immunization of school children;
- (u) disinsectization of aircraft entering within the Trust Territory as may be necessary to prevent the introduction, transportation, or spread of disease or the introduction or spread of any insect or other vector of significance to health.

(2) The director of Health Services may require such certificates, permits, or licenses as he may deem necessary adequately to regulate the conditions or businesses referred to in this section.

Source: TT Code 1966 § 621; COM PL 2-15 § 20; COM PL 3-35 § 1; TT Code 1970, 63 TTC 3; COM PL 5-2 § 2; TT Code 1980, 63 TTC 3.

§ 103. Isolation and quarantine of contagious diseases.

Persons suffering from contagious disease, and persons who have been exposed to such diseases may be isolated and quarantined in accordance with regulations issued pursuant to this title.

Source: TT Code 1966 § 621; TT Code 1970, 63 TTC 101; TT Code 1980, 63 TTC 101.

§ 104. Importation of *psittacine* birds.

No birds of the *psittacine* family, parrots, parakeets, love birds, etc., shall be imported into the Trust Territory without specific approval in each case by the director of Health Services. Birds kept in violation of this section may be ordered exported or destroyed by the District director of Health Services.

Source: TT Code 1966 § 620; TT Code 1970, 63 TTC 102; TT Code 1980, 63 TTC 102.

§ 105. Birth and death records.

(1) The Department of Health Services shall be responsible for:

(a) the prompt collection of vital statistical information concerning all births and deaths occurring in the Trust Territory;

(b) preparing forms and issuing instructions necessary for uniform registration of births and deaths;

(c) filing a copy of the certificate of such birth or death with the clerk of courts of the district in which the birth or death occurred; and,

(d) compiling, analyzing, and publishing vital statistics concerning births and deaths, and such other general welfare of the inhabitants of the Trust Territory.

(2) Other departments, as designated by the High Commissioner, shall cooperate with and assist the Department of Health Services in performing these functions.

(3) The clerk of courts in each district shall register births and deaths by recording and indexing each birth and death certificate filed in his office in accordance with the regulations provided in this chapter.

Source: TT Code 1966 § 624; TT Code 1970, 63 TTC 51; TT Code 1980, 63 TTC 51.

§ 106. Autopsies.

Autopsies and post-mortem examinations may be performed by a physician as a means of revealing or clarifying the cause of death, provided each examination does not violate local custom, and provided written consent is secured from the nearest responsible relative. In the case of a death under conditions suggesting poisoning, violence, or unusual circumstances, where the cause and manner of death cannot otherwise be satisfactorily ascertained, an autopsy shall be performed if practicable, whenever recommended by the District director of health services or the District Attorney and approved by the District Administrator.

Source: TT Code 1966 § 623; TT Code 1970, 63 TTC 52; TT Code 1980, 63 TTC 52.

§§ 107-109. [RESERVED]

Editor's note: Sections 107-109, and 111-118, were reserved in the 1982 edition of this code.

§ 110. Payment of fees for services.

Individual or group fees shall be paid for all medical and dental services provided by the Government of the Trust Territory in accordance with schedules and regulations recommended by the director of Health Services and approved by the High Commissioner, except for such services as the High Commissioner determines shall be free in order to best serve the public interest. No one in need of medical care shall be denied such care because of inability to pay all or any part of any fee established. There shall be no distinction in treatment or care based upon nonpayment or the amount of payment.

Source: TT Code 1966 § 617; TT Code 1970, 63 TTC 155; TT Code 1980, 63 TTC 155.

§§ 111-118 [RESERVED]

Editor's note: Sections 107-109, and 111-118, were reserved in the 1982 edition of this code.

§ 119. Penalties for violation of this chapter.

A person who violates any of the provisions of this chapter or regulations issued pursuant thereto shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$500, or imprisoned for not more than one year, or both.

Source: TT Code 1966 § 625; TT Code 1970, 63 TTC 103; TT Code 1980, 63 TTC 103.