



New South Wales

Health Administration Regulation 2010

under the

Health Administration Act 1982

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Health Administration Act 1982*.

CARMEL TEBBUTT, MP
Minister for Health

Explanatory note

The object of this Regulation is to remake, with some amendments, the provisions of the *Health Administration Regulation 2005* which is repealed on 1 September 2010 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation includes a new provision that allows a member of a root cause analysis team to disclose information about a proposed recommendation of the team for the purposes of consultation on the recommendation.

This Regulation makes provision with respect to the following:

- (a) the procedure and functions of quality assurance committees,
- (b) the health services organisations and reportable incidents that require the appointment of a root cause analysis team and the disclosure of information by a member of such a team,
- (c) the establishments, colleges, associations or other bodies that are prescribed establishments,
- (d) the circumstances in which the disclosure of certain information will not constitute an offence under the *Health Administration Act 1982*,
- (e) savings and formal matters

This Regulation is made under the *Health Administration Act 1982*, including sections 20D (definition of *prescribed establishment*), 20K, 20L (definitions of *relevant health services organisation* and *reportable incident*), 20P (d), 22 (e) and 34 (the general regulation-making power).

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Explanatory note

This Regulation comprises or relates to matters set out in Schedule 3 to the *Subordinate Legislation Act 1989*, namely matters of a machinery nature and matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

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Clause 1 Health Administration Regulation 2010

Part 1 Preliminary

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Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Health Administration Regulation 2010*.

2 Commencement

This Regulation commences on 1 September 2010 and is required to be published on the NSW legislation website.

Note. This Regulation replaces the *Health Administration Regulation 2005* which is repealed on 1 September 2010 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

(1) In this Regulation:

committee means a committee declared to be an approved quality assurance committee under section 20E of the Act.

the Act means the *Health Administration Act 1982*.

(2) Notes included in this Regulation do not form part of this Regulation.

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Clause 4

Quality assurance committees

Part 2

Part 2 Quality assurance committees

4 Quorum

- (1) The quorum for a meeting of a committee is to be:
 - (a) if there is an odd number of members—a majority of the number of members, or
 - (b) if there is an even number of members—one half of the number of members plus one.
- (2) Despite subclause (1), a meeting of a committee at which a quorum is present may decide on a different number of members as the quorum for future meetings of the committee.

5 Chairperson

Of the members of a committee, one is to be elected as chairperson by a majority of those members.

6 Presiding member

- (1) The chairperson of a committee or, in the absence of the chairperson, another member elected to chair the meeting by the members present is to preside at a meeting of the committee.
- (2) The person presiding at any meeting of a committee has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

7 Voting

A decision supported by a majority of the votes cast at a meeting of a committee at which a quorum is present is the decision of the committee.

8 General procedure

The procedure for the calling of meetings of a committee and for the conduct of business at those meetings is, subject to the Act, this Regulation and any rules of the prescribed establishment that established the committee, to be as determined by that committee.

9 Information available to the public

- (1) The committee is to make the following information publicly available in the form of a written report:
 - (a) general details of the services that have been assessed and evaluated by the committee during the period to which the report relates,

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Part 2 Quality assurance committees

- (b) any action taken (described in general terms) as a result of the assessment and evaluation process referred to in paragraph (a).
- (2) The report is to be in such form as the committee determines and may be in the same form as the report provided to the Minister under clause 10.
- (3) The report is to be made at least annually or more often if the committee so determines.
- (4) The report is to be available for public inspection free of charge during normal business hours at the principal place of administration of the prescribed establishment that established the committee.

10 Reports to the Minister

- (1) Each committee must, on or before 1 September in each year, furnish a report to the Minister of its activities during the year ending on the preceding 30 June.
- (2) The Minister may request that the committee report at more frequent intervals.
- (3) A report furnished to the Minister is to include the following information:
 - (a) the information required to be made publicly available under clause 9 and a statement indicating whether or not the requirements of that clause have been satisfied by inclusion of that information in the report,
 - (b) a statement indicating whether or not the relevant experience of the members of the committee is appropriate to the services assessed or evaluated by the committee (that is, whether the requirements of section 20E (2) (c) of the Act are satisfied in relation to that experience),
 - (c) a statement indicating whether or not the exercise of the functions of the committee has been and will continue to be facilitated by the provision of immunities and protections afforded by Division 6B of Part 2 of the Act,
 - (d) a statement indicating whether or not it has been and will continue to be in the public interest to restrict the disclosure of information compiled by the committee in the course of the exercise of the committee's functions.

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Clause 11

Quality assurance committees

Part 2

11 Reports to prescribed establishments

- (1) At the completion of an assessment and evaluation of a particular service, a committee is to submit a report to the prescribed establishment that provided the service and to the prescribed establishment that established the committee.
- (2) The report is to include the following information:
 - (a) a description of the service assessed and evaluated,
 - (b) the general findings of the committee,
 - (c) any specific recommendations made by the committee, including details of how such recommendations are to be implemented if adopted.
- (3) If a committee recommends that certain action be taken with respect to a particular service provided by a prescribed establishment and that recommendation is adopted by that prescribed establishment and by the prescribed establishment that established the committee, the committee is to monitor the implementation of that recommendation and report to both establishments on the progress and outcome of that implementation.

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Part 3 Root cause analysis teams

Part 3 Root cause analysis teams

12 Relevant health services organisation

- (1) For the purpose of paragraph (b) of the definition of **relevant health services organisation** in section 20L of the Act, each of the following statutory health corporations is prescribed as a relevant health services organisation:
 - (a) Justice Health,
 - (b) The Royal Alexandra Hospital for Children.
- (2) For the purpose of paragraph (c) of the definition of **relevant health services organisation** in section 20L of the Act, each of the following affiliated health organisations is prescribed as a relevant health services organisation:
 - (a) Calvary Health Care Sydney Limited,
 - (b) Catholic Healthcare Limited,
 - (c) Hope Healthcare Ltd,
 - (d) Karitane,
 - (e) Mercy Care Centre, Young,
 - (f) Mercy Health Service Albury Limited,
 - (g) Royal Rehabilitation Centre Sydney,
 - (h) Royal Society for the Welfare of Mothers and Babies,
 - (i) Sacred Heart Hospice Limited,
 - (j) St Joseph's Hospital Ltd,
 - (k) St Vincent's Hospital Sydney Ltd,
 - (l) Uniting Church in Australia.

Note. Section 62 (1) of the *Health Services Act 1997* provides that an organisation or institution whose name is included in column 1 of Schedule 3 to that Act is an affiliated health organisation in respect of any of its recognised establishments and recognised services (these being included in column 2 of Schedule 3 to that Act).

13 Reportable incident

For the purpose of the definition of **reportable incident** in section 20L of the Act, a reportable incident means an incident of a type set out in the document entitled *NSW Department of Health Policy Directive PD2005_634 Reportable Incident Definition under section 20L of the Health Administration Act*, as published in the Gazette on 23 December 2005.

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Clause 14

Root cause analysis teams

Part 3

14 Disclosure of information

- (1) For the purposes of section 20P (d) of the Act, a person who is or was a member of an RCA team may divulge or communicate information acquired by him or her as a member of an RCA team if the information is divulged or communicated to:
 - (a) any of the following committees in connection with any research or investigation the committee is authorised to conduct under section 23 (1) of the Act:
 - (i) Special Committee Investigating Deaths Under Anaesthesia (SCIDUA),
 - (ii) Collaborating Hospitals Audit of Surgical Mortality Committee (CHASM),
 - (iii) The NSW Maternal and Perinatal Committee, or
 - (b) the chief executive officer of the relevant health services organisation by which the RCA team was appointed for the purposes of informing the chief executive officer of a proposed recommendation of the RCA team and enabling the chief executive officer to consult with other members of staff of the health services organisation about the proposed recommendation.
- (2) In this clause:
RCA team has the same meaning it has in Division 6C of Part 2 of the Act.

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Part 4 Miscellaneous

Part 4 Miscellaneous

15 Prescribed establishments

For the purposes of paragraph (c) of the definition of **prescribed establishment** in section 20D of the Act, the following are prescribed:

- (a) a private health facility within the meaning of the *Private Health Facilities Act 2007*,
- (b) a nursing home within the meaning of the *Public Health Act 1991*,
- (c) a pathology laboratory operating at premises approved as an accredited pathology laboratory under section 23DN of the *Health Insurance Act 1973* of the Commonwealth,
- (d) the bodies listed in Schedule 1.

16 Disclosure of information

- (1) The object of this clause is to prescribe certain circumstances in which the disclosure of information obtained in connection with the administration or execution of the Act (or any other Act conferring or imposing responsibilities or functions on the Minister, Department, Director-General, Corporation or Foundation) will not constitute an offence under the Act.
- (2) For the purposes of section 22 (e) of the Act, the prescribed circumstances are that:
 - (a) the disclosure is approved in writing by the Director-General or the Chief Health Officer of the Department (in the case of information that is epidemiological data that does not identify any individual to whom the information relates) or by the Director-General (in any other case), and
 - (b) the disclosure is made in accordance with such approval.
- (3) The Director-General is not to approve under this clause the disclosure of information that may identify an individual to whom the information relates unless:
 - (a) the Director-General is satisfied that the individual consents to the disclosure of the information, or
 - (b) the Director-General is satisfied that the disclosure is urgently required in the interests of public health, or
 - (c) the information is required for the purpose of medical research and the Director-General is satisfied that the research is being conducted in accordance with any guidelines of the National Health and Medical Research Council that the Director-General considers relevant, in particular any guidelines relating to the

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Clause 17

Miscellaneous

Part 4

circumstances where the consent of an individual the subject of research need not be obtained and the protection of individual privacy.

- (4) An approval:
 - (a) must describe the information authorised to be disclosed, and
 - (b) must name the person or body to whom disclosure of the information is authorised to be made, and
 - (c) may be given subject to conditions specified in it.

17 Savings

Any act, matter or thing that, immediately before the repeal of the *Health Administration Regulation 2005*, had effect under that Regulation continues to have effect under this Regulation.

Schedule 1 Prescribed establishments

(Clause 15 (d))

Australasian Association of Clinical Biochemists Incorporated
The Australasian College of Dermatologists
The Australasian College for Emergency Medicine
The Australasian Epidemiological Association
Australasian Faculty of Occupational Medicine
Australasian Faculty of Public Health Medicine
Australasian Faculty of Rehabilitation Medicine
Australasian Society of Clinical Immunology and Allergy
Australian and New Zealand Association of Neurologists
Australian and New Zealand Association of Physicians in Nuclear Medicine
Australian and New Zealand College of Anaesthetists
Australian and New Zealand Intensive Care Society
Australian and New Zealand Society for Geriatric Medicine Incorporated
Australian and New Zealand Society of Nephrology
Australian Association of Gerontology Inc
Australian Association of Occupational Therapists Incorporated
Australian Association of Social Workers Limited
Australian Association of Surgeons
Australian College of Clinical Psychologists
Australian College of Health Service Executives
The Australian College of Paediatrics
Australian Dental Association (NSW Branch)
Australian Healthcare and Hospitals Association
Australian Institute of Medical Scientists
Australian Institute of Radiography
Australian Orthopaedic Association
Australian Physiotherapy Association

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Prescribed establishments

Schedule 1

Australian Postgraduate Federation in Medicine Incorporated
The Australian Red Cross Society in respect of the Australian Red Cross Blood Service in New South Wales
The Australian Society of Otolaryngology Head & Neck Surgery Limited
Australian Society of Plastic Surgeons Incorporated
The Cardiac Society of Australia and New Zealand
Dietitians Association of Australia
Environmental Health Australia
Haematology Society of Australia and New Zealand
Health Information Management Association of Australia (NSW Branch)
Institute of Hospital Engineering, Australia
Institute of Nursing Administrators of New South Wales and A.C.T.
New South Wales Neurosurgical Association Incorporated
New South Wales Operating Theatre Association Inc
NSW Institute of Psychiatry
NSW Institute of Trauma and Injury Management
Optometrists Association Australia (NSW Division)
The Pharmaceutical Society of New South Wales Limited
Private Doctors of Australia Limited
Public Health Association of Australia Inc
The Royal Australasian College of Medical Administrators
The Royal Australasian College of Physicians
Royal Australasian College of Surgeons
The Royal Australian and New Zealand College of Obstetricians and Gynaecologists
The Royal Australian and New Zealand College of Ophthalmologists
The Royal Australian and New Zealand College of Psychiatrists
The Royal Australian and New Zealand College of Radiologists
The Royal Australian College of General Practitioners
The Royal College of Pathologists of Australasia
The Society of Hospital Pharmacists of Australia

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Schedule 1 Prescribed establishments

The Speech Pathology Association of Australia Limited
The Thoracic Society of Australia and New Zealand Incorporated
The Transplantation Society of Australia and New Zealand Inc
The Urological Society of Australasia