



New South Wales

Health Administration Regulation 2015

under the

Health Administration Act 1982

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

JILLIAN SKINNER, MP
Minister for Health

Explanatory note

The object of this Regulation is to repeal and remake, with minor amendments, the provisions of the *Health Administration Regulation 2010*, which would otherwise be repealed on 1 September 2015 by section 10 (2) of the *Subordinate Legislation Act 1989*. The new Regulation:

- (a) prescribes certain establishments as prescribed establishments for which committees can be approved as quality assurance committees (for the purposes of Division 6B of Part 2 of the *Health Administration Act 1982*), and
- (b) makes provision for the procedure of quality assurance committees and the manner in which those committees exercise their functions, and
- (c) makes provision in relation to root cause analysis teams (for the purposes of Division 6C of Part 2 of that Act), and
- (d) prescribes the circumstances in which the disclosure of information obtained in connection with the administration or execution of that Act (or certain other Acts relating to health administration) will not constitute an offence under that Act.

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

This Regulation comprises or relates to 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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Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Health Administration Regulation 2015*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

Note. This Regulation repeals and replaces the *Health Administration Regulation 2010*, which would otherwise be repealed on 1 September 2015 by section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Interpretation

(1) In this Regulation:

the Act means the *Health Administration Act 1982*.

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

Part 2 Quality assurance committees

4 Definitions

In this Part:

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

prescribed establishment has the same meaning as in section 20D of the Act.

5 Prescribed establishments

For the purpose 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 2010*,
- (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.

6 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.

7 Chairperson

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

8 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.

9 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.

10 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.

11 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,
 - (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 12.
- (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.

12 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 11 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.

13 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.

Part 3 Root cause analysis teams

14 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 and Forensic Mental Health Network,
 - (b) The Sydney Children's Hospitals Network (Randwick and Westmead) (incorporating 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) Calvary Health Care (Newcastle) Limited,
 - (c) Catholic Healthcare Limited,
 - (d) Hammondcare Health and Hospitals Limited,
 - (e) Karitane,
 - (f) Mercy Care Centre, Young,
 - (g) Mercy Health Service Albury Limited,
 - (h) Royal Rehab,
 - (i) Royal Society for the Welfare of Mothers and Babies,
 - (j) St Vincent's Hospital Sydney Limited,
 - (k) 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).

15 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 Appendix D of the document entitled *Ministry of Health Policy Directive PD2014_004 Incident Management Policy*, as published in the Gazette on 24 January 2014.

16 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 Mortality Review 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.

Part 4 Miscellaneous

17 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, the Ministry of Health, the Secretary, the Corporation or the 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) in the case of information that is epidemiological data that does not identify any individual to whom the information relates—the disclosure is approved in writing by the Secretary or by the Chief Health Officer of the Ministry of Health and the disclosure is made in accordance with such approval, or
 - (b) in the case of any other information—the disclosure is approved in writing by the Secretary and the disclosure is made in accordance with such approval.
- (3) The Secretary is not to approve under this clause the disclosure of information that may identify an individual to whom the information relates unless:
 - (a) the Secretary is satisfied that the individual consents to the disclosure of the information, or
 - (b) the Secretary 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 Secretary is satisfied that the research is being conducted in accordance with any guidelines of the National Health and Medical Research Council that the Secretary considers relevant, in particular any guidelines relating to the circumstances where the consent of an individual the subject of research need not be obtained and the protection of individual privacy, or
 - (d) the disclosure is made to the Centre for Health Records Linkage (CHeReL), or any other similar organisation approved by the Secretary, for the purposes of obtaining a unique identifier to be used for the funding, management, planning or evaluation of health services.
- (4) An approval under this clause:
 - (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.
- (5) In this clause:
Secretary means the Secretary of the Ministry of Health.

18 Repeal and savings

- (1) The *Health Administration Regulation 2010* is repealed.
- (2) Any act, matter or thing that, immediately before the repeal of the *Health Administration Regulation 2010*, had effect under that Regulation continues to have effect under this Regulation.

Schedule 1 Prescribed establishments

(Clause 5 (d))

Australasian Association of Clinical Biochemists Incorporated
Australasian Association of Nuclear Medicine Specialists
Australasian College of Dermatologists
Australasian College for Emergency Medicine
Australasian College of Health Service Management
Australasian Epidemiological Association
Australasian Faculty of Occupational and Environmental 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 College of Anaesthetists
Australian and New Zealand Intensive Care Society
Australian and New Zealand Society for Geriatric Medicine
Australian and New Zealand Society of Nephrology
Australian Association of Gerontology Inc
Australian Association of Social Workers Limited
Australian College of Clinical Psychologists
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
Australian Postgraduate Federation in Medicine
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
New South Wales Neurosurgical Association
New South Wales Operating Theatre Association Inc
NSW Institute of Psychiatry
NSW Institute of Trauma and Injury Management
Occupation Therapy Australia
Optometrists Association Australia (NSW Division)
Pharmaceutical Society of Australia—NSW Branch
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 Physicians—Paediatrics & Child Health Division
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
Speech Pathology Australia
The Thoracic Society of Australia and New Zealand Incorporated
The Transplantation Society of Australia and New Zealand Inc
The Urological Society of Australasia