



New South Wales

# Health Administration Regulation 2005

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*.

JOHN HATZISTERGOS, M.L.C.,  
Minister for Health

## Explanatory note

The object of this Regulation is to remake, with minor amendments, the provisions of the *Health Administration Regulation 2000* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*. The new Regulation:

- (a) makes provision for the procedure of quality assurance committees and the manner in which those committees exercise their functions, and
- (b) makes provision in relation to root cause analysis teams for the purposes of Division 6C of Part 2 of the *Health Administration Act 1982*, and
- (c) prescribes certain establishments as prescribed establishments for the purposes of Division 6B 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, 22 (e) and 34 (the general regulation-making power).

This Regulation comprises 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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## Health Administration Regulation 2005

under the

Health Administration Act 1982

### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Health Administration Regulation 2005*.

#### 2 Commencement

This Regulation commences on 1 September 2005.

**Note.** This Regulation replaces the *Health Administration Regulation 2000* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.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 in this Regulation do not form part of this Regulation.

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Part 2 Quality assurance committees

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### 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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- (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 Health Administration Regulation 2005

Part 2 Quality assurance committees

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### **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

### 12 Relevant health services organisation

- (1) Each of the following statutory health corporations is prescribed as a relevant health services organisation for the purpose of Division 6C (Root cause analysis teams) of Part 2 of the Act:
  - (a) Justice Health,
  - (b) The Royal Alexandra Hospital for Children.
- (2) Each of the following affiliated health organisations is prescribed as a relevant health services organisation for the purpose of Division 6C of Part 2 of the Act:
  - (a) Calvary Health Care Sydney Limited,
  - (b) Catholic Health Care Services Limited,
  - (c) Hope HealthCare Ltd,
  - (d) Karitane,
  - (e) Mercy Care Centre, Young,
  - (f) Mercy Health Care (Newcastle) Limited,
  - (g) Mercy Health Service Albury Limited,
  - (h) Royal Rehabilitation Centre Sydney,
  - (i) Royal Society for the Welfare of Mothers and Babies,
  - (j) Sacred Heart Hospice Limited,
  - (k) St Joseph's Hospital Ltd,
  - (l) St Vincent's Hospital Sydney Ltd,
  - (m) The Trustees of the Roman Catholic Church for the diocese of Lismore,
  - (n) 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 Division 6C of Part 2 of the Act, a reportable incident means an incident of a type set out in Appendix B to the document entitled *NSW Department of Health Policy Directive PD2005\_604 Incident Management Policy* published by the Department on 1 August 2005.

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Part 3 Root cause analysis teams

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### **14 Disclosure of information**

For the purposes of section 20P 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 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:

- (a) Special Committee Investigating Deaths Under Anaesthesia (SCIDUA),
- (b) Special Committee Investigating Deaths Associated with Surgery (SCIDAWS),
- (c) The NSW Maternal and Perinatal Committee,
- (d) The NSW Mental Health Sentinel Events Review Committee.



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## Part 4 Miscellaneous

### 15 Prescribed establishments

Each of the following bodies is prescribed as a prescribed establishment (in addition to those specified in the definition of *prescribed establishment* in section 20D of the Act):

- (a) an establishment within the meaning of the *Private Hospitals and Day Procedure Centres Act 1988*,
- (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 to this Regulation.

### 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

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Part 4 Miscellaneous

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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.

- (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 provision

Any act, matter or thing that, immediately before the repeal of the *Health Administration Regulation 2000*, had effect under that Regulation is taken to have effect under this Regulation.

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## **Schedule 1    Prescribed establishments**

(Clause 15 (d))

Australasian College of Dermatologists  
Australasian College for Emergency Medicine  
Australasian Epidemiological Association  
Australasian Faculty of Occupational Medicine  
Australasian Faculty of Rehabilitation Medicine  
Australasian Society of Clinical Immunology and Allergy Inc.  
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 of Nephrology  
Australian Association of Clinical Biochemists  
Australian Association of Gerontology  
Australian Association of Neurologists  
Australian Association of Occupational Therapists Inc  
Australian Association of Social Workers  
Australian Association of Speech and Hearing  
Australian Association of Surgeons  
The Australian College of Clinical Psychologists  
Australian College of Health Service Executives  
The Australian College of Paediatrics  
Australian Dental Association (NSW Branch)  
Australian Faculty of Public Health Medicine  
Australian Hospitals Association  
Australian Institute of Health Surveyors  
Australian Institute of Medical Laboratory Scientists  
Australian Institute of Radiography  
Australian Orthopaedic Association

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Schedule 1 Prescribed establishments

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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  
Australian Society for Geriatric Medicine Inc  
The Australian Society of Otolaryngology Head and Neck Surgery Limited  
Australian Society of Plastic Surgeons Inc  
Cardiac Society of Australia and New Zealand  
Dietitians Association of 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  
N.S.W. Institute of Psychiatry  
N.S.W. Institute of Trauma and Injury Management  
N.S.W. Operating Theatre Association  
Optometrists Association Australia (NSW Division)  
Pharmaceutical Society of Australia (New South Wales) Ltd  
Private Doctors of Australia  
Public Health Association of Australia  
Royal Australasian College of Medical Administrators  
Royal Australasian College of Physicians  
Royal Australasian College of Surgeons  
Royal Australian and New Zealand College of Obstetricians and Gynaecologists  
Royal Australian and New Zealand College of Ophthalmologists  
Royal Australian and New Zealand College of Psychiatrists  
The Royal Australian and New Zealand College of Radiologists  
Royal Australian College of General Practitioners  
The Royal College of Pathologists of Australia

Health Administration Regulation 2005

Prescribed establishments

Schedule 1

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Society of Hospital Pharmacists of Australia  
The Thoracic Society of Australia and New Zealand  
Transplantation Society of Australia and New Zealand  
Urological Society of Australasia