



New South Wales

Health Services Amendment (Local Health Networks) Regulation 2010

under the

Health Services Act 1997

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Health Services Act 1997*.

CARMEL TEBBUTT, MP
Minister for Health

Explanatory note

The object of this Regulation is to amend the *Health Services Regulation 2008*:

- (a) to set out provisions in relation to the constitution and procedure for governing councils for local health networks, and
- (b) to make provision for matters of a savings or transitional nature consequent on the enactment of the *Health Services Amendment (Local Health Networks) Act 2010* and the transfer of the assets, rights and liabilities of the abolished area health services to other statutory health organisations.

This Regulation is made under the *Health Services Act 1997*, including section 140 (the general regulation-making power), clause 18 of Schedule 4 and clauses 1 and 81 of Schedule 7.

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Clause 1 Health Services Amendment (Local Health Networks) Regulation 2010

Health Services Amendment (Local Health Networks) Regulation 2010

under the

Health Services Act 1997

1 Name of Regulation

This Regulation is the *Health Services Amendment (Local Health Networks) Regulation 2010*.

2 Commencement

This Regulation commences on 1 January 2011 and is required to be published on the NSW legislation website.

Schedule 1 Amendment of Health Services Regulation 2008

[1] **Clause 14 Provision of ambulance transport**

Omit “the Sydney West Area Health Service”.

Insert instead “The Sydney Children’s Hospitals Network (Randwick and Westmead) (incorporating The Royal Alexandra Hospital for Children)”.

[2] **Schedules 1 and 2**

Insert after clause 18:

Schedule 1 Constitution and procedure of local health network governing councils

Part 1 Preliminary

1 Definitions

In this Schedule:

Chairperson means the Chairperson of a Governing Council.

Note. Section 26 (6) of the Act provides for the appointment of a Chairperson by the Minister.

Chief Executive means the chief executive of a local health network.

Deputy Chairperson means the Deputy Chairperson of a Governing Council.

Note. Clause 2 provides for the appointment of a Deputy Chairperson by the Minister.

Governing Council means the local health network governing council for a local health network.

medical staff council means the medical staff council of a local health network appointed under the network’s by-laws.

medical staff executive council means the medical staff executive council of a local health network appointed under the network’s by-laws.

member means a member of a Governing Council.

Part 2 Constitution

2 Deputy Chairperson

- (1) The Minister may appoint a member (other than the Chairperson), by the instrument of appointment of the member or a subsequent instrument signed by the Minister, as the Deputy Chairperson of a Governing Council.
- (2) The Deputy Chairperson may act in the office of Chairperson during the illness or absence of the Chairperson, and while so acting has and may exercise all the functions of the Chairperson and is taken to be the Chairperson.
- (3) For the purposes of this clause, a vacancy in the office of the Chairperson is taken to be an absence from office of the Chairperson.

3 Acting members and Acting Chairperson

- (1) The Minister may, from time to time, appoint a person to act in the office of a member during the illness or absence of the member, and the person, while so acting, has and may exercise all the functions of the member and is taken to be a member.
- (2) The Minister may, from time to time, appoint a member to act in the office of Chairperson during the illness or absence of both the Chairperson and Deputy Chairperson, and the member, while so acting, has and may exercise all the functions of the Chairperson and is taken to be the Chairperson.
- (3) The Minister may remove any person from any office to which the person was appointed under this clause.
- (4) A person who is acting as a member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.
- (5) For the purposes of this clause, a vacancy in the office of a member or the Chairperson or Deputy Chairperson is taken to be an absence from office of the member, Chairperson or Deputy Chairperson (as the case may be).

4 Filling of vacancy in office of member

If the office of any member becomes vacant, a person is, subject to the Act, to be appointed to fill the vacancy.

5 Vacancy in office of Chairperson or Deputy Chairperson

- (1) The office of Chairperson or Deputy Chairperson becomes vacant if the person holding that office:
 - (a) ceases to be a member, or
 - (b) is removed from office under subclause (2).
- (2) The Minister may remove the Chairperson or Deputy Chairperson from office as such.

6 Vacancy in office of member

The office of a member becomes vacant if the member:

- (a) dies, or
- (b) completes a term of office and is not re-appointed, or
- (c) resigns the office by instrument in writing addressed to the Minister, or
- (d) is absent from 4 consecutive meetings of the Governing Council of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Council or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Council for being absent from those meetings, or
- (e) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
- (f) becomes a mentally incapacitated person, or
- (g) is convicted in New South Wales of an offence which is punishable by imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable, or
- (h) is removed from office by the Minister under section 29 of the Act.

7 Disclosure of pecuniary interests

- (1) If:
 - (a) a member has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Governing Council, and

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- (b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,
- the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Governing Council.
- (2) A disclosure by a member at a meeting of the Governing Council that the member:
- (a) is a member, or is in the employment, of a specified company or other body, or
 - (b) is a partner, or is in the employment, of a specified person, or
 - (c) has some other specified interest relating to a specified company or other body or to a specified person,
- is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under subclause (1).
- (3) Particulars of any disclosure made under this clause must be recorded by the Governing Council in a book kept for the purpose and that book must be open at all reasonable hours for inspection by any person on payment of the fee determined by the Governing Council.
- (4) After a member has disclosed the nature of an interest in any matter, the member must not, unless the Governing Council otherwise determines:
- (a) be present during any deliberation of the Governing Council with respect to the matter, or
 - (b) take part in any decision of the Governing Council with respect to the matter.
- (5) For the purposes of the making of a determination by the Governing Council under subclause (4), a member who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not:
- (a) be present during any deliberation of the Governing Council for the purpose of making the determination, or
 - (b) take part in the making by the Governing Council of the determination.
- (6) A member does not have a pecuniary interest for the purposes of this clause in relation to a matter merely because the member is

employed or otherwise holds an appointment at a hospital or health service that is or may be affected by the matter.

- (7) A contravention of this clause does not invalidate any decision of the Governing Council.
- (8) The provisions of this clause extend to meetings of a committee of the Governing Council.

Part 3 Procedure

8 General procedure

The procedure for the calling of meetings of a Governing Council and for the conduct of business at those meetings is, subject to the Act and this Schedule, to be as determined by that Governing Council.

9 Quorum

The quorum for a meeting of a Governing Council is a majority of its members.

10 Presiding member

- (1) The presiding member for a meeting of a Governing Council is:
 - (a) the Chairperson, or
 - (b) in the absence of the Chairperson, the Deputy Chairperson, or
 - (c) in the absence of both the Chairperson and Deputy Chairperson, another member elected to preside at the meeting.
- (2) The Chief Executive is to conduct any election under subclause (1) (c) for a presiding member.
- (3) The presiding member is to preside at a meeting of the Governing Council.
- (4) The presiding member has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

11 Voting

- (1) Only a member of the Governing Council may vote at a meeting of the Governing Council.
- (2) Subject to clause 20, any matter put to the vote at any meeting of the Governing Council is to be decided by a show of hands or by secret ballot if requested by a member attending the meeting.

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- (3) A decision supported by a majority of the votes cast at a meeting of the Governing Council at which a quorum is present is the decision of the Governing Council.

12 First meeting of Governing Council

The Chairperson may call the first meeting of a Governing Council in such manner as the Chairperson thinks fit.

13 Ordinary meetings of Governing Council

- (1) A Governing Council is to hold ordinary meetings at such times and places as may be determined by the Governing Council.
- (2) At least 6 ordinary meetings are to be held in any 12-month period with such meetings being held at regular intervals.
- (3) Written notice of an ordinary meeting (whether delivered by ordinary post or electronic means) is to be given by the Chief Executive, or by another person authorised by the Governing Council to give notice, to each member and each person invited by the Governing Council to attend the meeting, at least 7 days before the meeting.
- (4) The written notice of the meeting given to a member is to be accompanied by the following:
 - (a) a copy of the agenda for the meeting,
 - (b) except in the case of the first meeting of the Governing Council—a copy of the minutes of the previous meeting of the Governing Council,
 - (c) a copy of the minutes of any special meeting of the Governing Council held since the last ordinary meeting,
 - (d) a copy of the minutes of any meeting of a committee held since the Governing Council's last ordinary meeting.
- (5) A person invited to the meeting by the Governing Council may be provided with such of the information listed in subclause (4) as the Chairperson considers appropriate.

14 Special meetings of Governing Council

- (1) A special meeting of the Governing Council is to be called by the Chief Executive:
 - (a) at the direction of the Chairperson, or

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- (b) within 48 hours of receipt by the Chief Executive of a written request for a special meeting signed by at least 3 members of the Governing Council.
 - (2) A special meeting is to be held not later than 7 days after receipt by the Chief Executive of a request referred to in subclause (1) (b).
 - (3) The Chief Executive is to give at least 24 hours' written notice, and such of the material referred to in clause 13 (4) as the Chief Executive considers appropriate, to each member and to each person invited to attend the meeting by the Governing Council.
 - (4) Notice of a special meeting is to specify the business to be considered at that meeting.
 - (5) Only business specified in the notice of a special meeting is to be considered at the special meeting.

15 Attendance at Governing Council meetings

- (1) The Governing Council is to invite the following people to attend its meetings:
 - (a) the Chief Executive or his or her nominee,
 - (b) the Chair of the medical staff executive council for the local health network or, if there is only one medical staff council for the network, the Chair of that medical staff council,
 - (c) at least one representative of the executive staff (being the persons appointed by the local health network to its management structure and any persons appointed to act for the time being in those positions).
- (2) A medical staff executive council or medical staff council (as the case requires) may nominate an alternate to attend meetings of the Governing Council in the event that the Chair of the medical staff executive council or medical staff council is unable to attend a meeting. Any such alternate may attend a meeting to which the Chair is invited in the event that the Chair is unable to attend.
- (3) If a local health network has more than one medical staff council, the Governing Council may invite a representative for such of the councils as the Governing Council considers appropriate.
- (4) The Governing Council may invite any other person to attend any meeting of the Governing Council (including both ordinary and special meetings).

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- (5) The Governing Council may exclude any person (other than a member or the Chief Executive or his or her nominee) from attending any meeting or part of a meeting.
- (6) The Governing Council may exclude the Chief Executive, or his or her nominee, from attending any ordinary or special meeting, or part of a meeting, where the business under consideration relates to the conduct or performance of the Chief Executive.

16 Annual public meeting

- (1) An annual public meeting of the Governing Council is to be held between 1 July and 31 December each calendar year.
- (2) The Governing Council is to prepare and present at each annual public meeting a report on the affairs of the local health network since the last annual public meeting, including audited financial statements for the local health network.
- (3) The presiding member is to determine the procedure for the conduct of business at the annual public meeting. The procedure adopted is to be consistent with the requirements of the Act and this Schedule.
- (4) Any person is entitled to attend the annual public meeting and seek leave to address the meeting.
- (5) The holding of the annual public meeting is to be advertised in at least one newspaper circulating generally in the area of the local health network and by such other means (including on the Internet) as the Governing Council determines.
- (6) The provisions of this Schedule relating to the calling and conduct of ordinary and special meetings of the Governing Council do not apply to the calling and conduct of the annual public meeting.

17 Minutes

- (1) The Chief Executive is to ensure that minutes are kept of all meetings of the Governing Council.
- (2) A motion for the confirmation of minutes of a meeting is to be put to the next ordinary meeting.
- (3) No business is to be transacted until the minutes of the previous meeting have been confirmed or otherwise disposed of.

18 Decisions of the Governing Council to be made available

- (1) The Governing Council is to make available to staff of the local health network information concerning its decisions except where the Governing Council determines that it is inappropriate to disclose that information.
- (2) The Governing Council may make available to the public information concerning its decisions.

19 Rescission

- (1) The Governing Council may at any ordinary or special meeting vary or rescind any resolution carried at any previous meeting of the Governing Council, but only if the motion to vary or rescind the resolution has been included in or with the notice of the meeting.
- (2) If a motion to vary or rescind a resolution is considered at a meeting of the Governing Council and is not carried, the motion is not to be reconsidered by the Governing Council during the period of 3 months from the date of that meeting.

20 Transaction of business outside meetings or by telephone

- (1) A Governing Council may, if it thinks fit, transact any of its business by the circulation of papers among all the members of the Governing Council for the time being, and a resolution in writing approved in writing by a majority of those members is taken to be a decision of the Governing Council.
- (2) A Governing Council may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.
- (3) For the purposes of:
 - (a) the approval of a resolution under subclause (1), or
 - (b) a meeting held in accordance with subclause (2),the Chairperson and each member have the same voting rights as they have at an ordinary meeting of the Governing Council.
- (4) A resolution approved under subclause (1) is to be recorded in the minutes of the meetings of the Governing Council.
- (5) Papers may be circulated among the members for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned.

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Schedule 2 Savings and transitional provisions consequent on enactment of Health Services Amendment (Local Health Networks) Act 2010

1 Updating of references to particular area health services

Each reference (the *current reference*) specified in Column 2 of the Table to this clause located in the provision of the Act or statutory rule referred to in Column 1 (the *provision concerned*) for that reference is to be read on and from 1 January 2011 as being the reference or references specified in Column 3 (the *updated reference*) next to the current reference.

Column 1	Column 2	Column 3
Provision concerned	Current reference	Updated reference
<i>Centenary Institute of Cancer Medicine and Cell Biology Act 1985</i> No 192—section 7 (3) (c)	Central Sydney Area Health Service	Sydney Local Health Network
<i>Crimes (Forensic Procedures) Regulation 2008</i> —clause 6	Sydney West Area Health Service	Health Reform Transitional Organisation Western
<i>Drug Court Regulation 2010</i> —clause 10 (1) (a)	Sydney South West or Sydney West Area Health Services	Nepean Blue Mountains Local Health Network, South Western Sydney Local Health Network, Western Sydney Local Health Network or Health Reform Transitional Organisation Western
<i>Drug Court Regulation 2010</i> —clause 10 (1) (b)	Northern Sydney and Central Coast Area Health Service	Health Reform Transitional Organisation Northern

Column 1	Column 2	Column 3
Provision concerned	Current reference	Updated reference
<i>Passenger Transport (Drug and Alcohol Testing) Regulation 2010—clause 3 (1) (definition of approved laboratory)</i>	Sydney West Area Health Service	Health Reform Transitional Organisation Western
<i>Public Authorities (Financial Arrangements) Regulation 2005—Schedule 2</i>	Northern Sydney and Central Coast Area Health Service	Northern Sydney Local Health Network and Central Coast Local Health Network
<i>Public Authorities (Financial Arrangements) Regulation 2005—Schedule 2</i>	Sydney South West Area Health Service	Sydney Local Health Network and South Western Sydney Local Health Network
<i>Public Authorities (Financial Arrangements) Regulation 2005—Schedule 2</i>	Sydney West Area Health Service	Western Sydney Local Health Network and Nepean Blue Mountains Local Health Network
<i>Rail Safety (Drug and Alcohol Testing) Regulation 2008—clause 3 (1) (definition of approved laboratory)</i>	Western Sydney Area Health Service	Health Reform Transitional Organisation Western
<i>Road Transport (Safety and Traffic Management) Regulation 1999—clause 129</i>	Western Sydney Area Health Service	Health Reform Transitional Organisation Western
<i>Road Transport (Safety and Traffic Management) Regulation 1999—Schedule 3 (Column 1)</i>	Hunter New England Area Health Service	Hunter New England Local Health Network
<i>Road Transport (Safety and Traffic Management) Regulation 1999—Schedule 3 (Column 1)</i>	Western Sydney Area Health Service	Western Sydney Local Health Network

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Column 1	Column 2	Column 3
Provision concerned	Current reference	Updated reference
<i>Walker Trusts Act 1938</i> No 31—sections 9A (3), 19B (1) and (5) and 19C (1)	Central Sydney Area Health Service	Sydney Local Health Network

2 Continuation of existing approved quality assurance committees

- (1) Each of the approved quality assurance committees approved under section 20E of the *Health Administration Act 1982* in relation to an area health service that is referred to in Column 1 of the Table to this subclause (the **current committee name**) is taken on and from 1 January 2011 to be an approved quality assurance committee with the name specified in Column 2 (the **new committee**) next to the current committee.

Column 1	Column 2
Current committee name	New committee name
South Eastern Sydney and Illawarra Area Health Service's Southern Hospital Network Patient Safety and Quality Committee	Illawarra Shoalhaven Local Health Network Patient Safety and Quality Committee
Clinical Advisory Group—Western Cluster of the Sydney West Area Health Service	Clinical Advisory Group—Nepean Blue Mountains Local Health Network
Maternal Morbidity and Mortality Committee of the John Hunter Hospital, Hunter Area Health Service	John Hunter Hospital Maternal Morbidity and Mortality Committee
Goulburn Base Hospital Medical Review Panel of the Southern Area Health Service	Goulburn Base Hospital Clinical Review Panel
John Hunter Hospital Surgical Audit Committee of Hunter Area Health Service	John Hunter Hospital, Division of Surgery, Surgical Audit Committee
The Maitland Hospital Perinatal Review Committee of the Hunter Area Health Service	The Maitland Hospital Perinatal Review Committee
Central Sydney Area Health Service Cytology Quality Assurance Committee	Sydney Local Health Network Cytology Quality Assurance Committee

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- (2) The continuation of an approved quality assurance committee by operation of subclause (1) does not alter or otherwise affect the existing membership or functions of the committee.

3 Initial model by-laws to have effect until by-laws made by local health network

- (1) The initial model by-laws have effect for the purposes of the Act as the by-laws of a local health network until such time as by-laws made by the network under section 39 of the Act come into force.
- (2) The initial model by-laws have effect in relation to a local health network as if:
- (a) the by-laws had been made by the network, and
 - (b) references in the by-laws to a local health network were references to the network.
- (3) In this clause:

initial model by-laws means the model by-laws entitled *Local Health Network By-laws—Interim Model By-laws* made by the Director-General pursuant to sections 39 and 60 of the Act, as published in the Gazette on 3 December 2010.

Note. Section 39 of the Act enables the Director-General to set out model by-laws for local health networks in an order published in the Gazette.

4 Continuation of committees, subcommittees and councils established under existing by-laws

- (1) A reference in this clause to an existing committee, subcommittee or council is a reference to a committee, subcommittee or council established under any existing by-laws (within the meaning of Part 7 of Schedule 7 to the Act) that is in existence immediately before 1 January 2011.
- (2) Each existing Audit and Risk Committee for an area health service referred to in Column A of Schedule 1 to the initial model by-laws continues in existence as the Audit and Risk Committee for the corresponding local health network referred to in Column B of that Schedule until such time as the local health network governing council for the network establishes a new Committee under the network's by-laws.
- (3) Each existing Medical and Dental Appointments and Advisory Committee for an area health service referred to in Column A of Schedule 1 to the initial model by-laws continues in existence as the Medical and Dental Appointments and Advisory Committee

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for the corresponding local health network referred to in Column B of that Schedule until such time as the local health network governing council for the network establishes a new Committee under the network's by-laws.

- (4) Each existing Credentials (Clinical Privileges) Subcommittee for an area health service referred to in Column A of Schedule 1 to the initial model by-laws continues in existence as a Credentials (Clinical Privileges) Subcommittee for the corresponding local health network referred to in Column B of that Schedule until such time as the Medical and Dental Appointments and Advisory Committee for the network establishes a new Subcommittee under the network's by-laws.
- (5) Each of the existing Hospital Clinical Councils for an area health service referred to in Column A of Schedule 2 to the initial model by-laws continues in existence as a Hospital Clinical Council for the corresponding local health network referred to in Column B of that Schedule until such time as the local health network governing council for the network establishes a new Council under the network's by-laws.
- (6) Without limiting subclause (5), the existing South Eastern Sydney and Illawarra Area Health Service Hospital Clinical Council for the Central Network continues in existence as a Hospital Clinical Council for the South Eastern Sydney Local Health Network until such time as the local health network governing council for the network establishes a new Council under the network's by-laws.
- (7) The continuation of an existing committee, subcommittee or council by operation this clause does not alter or otherwise affect the existing membership or functions of the committee, subcommittee or council.
- (8) In this clause:
initial model by-laws has the same meaning as it has in clause 3.

5 Legal consequences of transfer of service contract to more than one local health network

- (1) This clause provides for the legal consequences of the transfer to more than one local health network by the *Health Services (Transfer of Assets, Rights and Liabilities) Order 2010* of the rights, obligations and other liabilities under an existing service contract.

Note. The *Health Services (Transfer of Assets, Rights and Liabilities) Order 2010* was published on the NSW legislation website. See, also, clause 18 (1A) of Schedule 4 to the Act.

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- (2) The rights, obligations and other liabilities under an existing service contract that are transferred to each local health network in relation to one or more health facilities under the network's control are taken to constitute a service contract between the service provider and the network in relation to the provision of services and exercise of clinical privileges at each such facility, and may be enforced accordingly.
- (3) For the purposes of subclause (2), the services to be provided, and the clinical privileges to be afforded, at each health facility are to be provided or afforded on the same terms and for the same period as are specified in the existing service contract.
- (4) In this clause:
- existing service contract*** means a service contract in force immediately before 1 January 2011 between a medical practitioner or practice company and an area health service that relates to the provision of services or exercise of clinical privileges at one or more health facilities controlled by the area health service.
- health facility*** means a public hospital or health institution.
- service provider***, in relation to an existing service contract, means the medical practitioner or practice company that is a party to the contract.