



New South Wales

Health Administration Regulation 2020

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*.

BRAD HAZZARD, MP
Minister for Health and Medical Research

Explanatory note

The object of this Regulation is to repeal and remake, with minor amendments, the *Health Administration Regulation 2015*, which would otherwise be repealed on 1 September 2020 by section 10(2) of the *Subordinate Legislation Act 1989*.

This Regulation provides for the following—

- (a) the establishments for which committees can be approved as quality assurance committees,
- (b) the procedure and functions of quality assurance committees,
- (c) root cause analysis teams,
- (d) the circumstances in which the disclosure of information obtained in connection with the administration or execution of the Act (or certain other Acts relating to health administration) will not constitute an offence under the *Health Administration Act 1982*.

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 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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Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Health Administration Regulation 2020*.

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 This Regulation repeals and replaces the *Health Administration Regulation 2015*, which would otherwise be repealed on 1 September 2020 by section 10(2) of the *Subordinate Legislation Act 1989*.

3 Definition

(1) In this Regulation—

the Act means the *Health Administration Act 1982*.

Note. The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

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

Part 2 Quality assurance committees

4 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 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.

5 General procedure

Subject to the Act, this Regulation or any rules of the prescribed establishment that established a Committee, a Committee may call and conduct meetings of the Committee as it determines.

6 Chairperson

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

7 Quorum at Committee meetings

- (1) The quorum for a Committee meeting is a majority of its members for the time being.
- (2) Despite subclause (1), a Committee may, at a Committee meeting at which a quorum is present, decide on a different number of members as the quorum for future meetings.

8 Presiding member

- (1) The chairperson presides at a Committee meeting.
- (2) If the chairperson is absent from a Committee meeting, another member elected by the members present at the meeting presides at the meeting.

9 Voting

- (1) A decision supported by a majority of the votes cast at a Committee meeting at which a quorum is present is the decision of the Committee.
- (2) If there is an equality of votes at a Committee meeting, the member presiding at the meeting also has a casting vote.

10 Information available to the public

- (1) A Committee must make the following information publicly available in the form of a written report—
 - (a) general details of the services 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 referred to in paragraph (a).
- (2) The report—
 - (a) must be in a form determined by the Committee, and

- (b) may be in the same form as the report provided to the Minister under clause 11.
- (3) The report must be made at least annually or more often if the Committee so determines.
- (4) The report must be available for public inspection free of charge during normal business hours at the official address of the prescribed establishment that established the Committee.

11 Reports to the Minister

- (1) A Committee must, on or before 1 September in each year, furnish a report to the Minister of the Committee's activities during the year ending on the preceding 30 June.
- (2) The Minister may ask the Committee to report at more frequent intervals.
- (3) A report furnished to the Minister must include the following information—
 - (a) the information required under clause 10(1),
 - (b) a statement indicating whether or not—
 - (i) the requirements of clause 10 have been satisfied by making the information required under clause 10(1) publicly available in the form of a written report, and
 - (ii) the relevant experience of the members of the Committee is appropriate to the services assessed and evaluated by the Committee, and
 - (iii) 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, and
 - (iv) 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.

12 Reports to prescribed establishments

- (1) At the completion of an assessment and evaluation of a service, a Committee must submit a report to—
 - (a) the prescribed establishment that provided the service, and
 - (b) the prescribed establishment that established the Committee.
- (2) The report must 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 a recommendation is to be implemented if adopted.
- (3) If a prescribed establishment adopts a recommendation made by the Committee in a report with respect to a particular service, the Committee must—
 - (a) monitor the implementation of the recommendation, and
 - (b) report to both prescribed establishments on the progress and outcome of the implementation.

Part 3 Root cause analysis teams

13 Relevant health services organisation

- (1) For the purposes 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—

- (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).

Note. Statutory health corporations are constituted under section 41 of the *Health Services Act 1997*.

- (2) For the purposes 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—

- (a) Calvary Health Care (Newcastle) Limited,
- (b) Calvary Health Care Sydney Limited,
- (c) Catholic Healthcare Limited,
- (d) Hammondcare Health and Hospitals Limited,
- (e) Karitane,
- (f) Mercy Hospitals NSW Ltd,
- (g) Royal Rehab,
- (h) Royal Society for the Welfare of Mothers and Babies,
- (i) St Vincent's Hospital Sydney Limited,
- (j) Uniting Church in Australia.

Note. Section 62 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).

14 Reportable incident

For the purposes 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 or E of the document entitled *PD2020_020 Incident Management Policy*, as published in the Gazette on 22 June 2020.

15 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 the person in the person's capacity as a member of an RCA team if the information is divulged or communicated to—

- (a) any of the following committees for the purposes of 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—
 - (i) informing the chief executive officer of a proposed recommendation of the RCA team, and
 - (ii) 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 as in Division 6C of Part 2 of the Act.

Part 4 Miscellaneous

16 Disclosure of information

- (1) The object of this clause is to prescribe 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 Health Secretary, the Corporation or the Foundation) does not constitute an offence under the Act.
- (2) For the purposes of section 22(e) of the Act, the prescribed circumstances are—
 - (a) in the case of information that is epidemiological data that does not identify any individual to whom the information relates—
 - (i) the disclosure is approved in writing by the Health Secretary or by the Chief Health Officer of the Ministry of Health, and
 - (ii) the disclosure is made in accordance with the approval, or
 - (b) in the case of any other information—
 - (i) the disclosure is approved in writing by the Health Secretary, and
 - (ii) the disclosure is made in accordance with the approval.
- (3) The Health Secretary must not approve under this clause the disclosure of information that may identify an individual to whom the information relates unless—
 - (a) the Health Secretary is satisfied that the individual consents to the disclosure of the information, or
 - (b) the Health Secretary is satisfied that the disclosure of the information is urgently required in the interests of public health, or
 - (c) the information is required for the purposes of medical research and the Health Secretary is satisfied that the research is being conducted in accordance with any guidelines of the National Health and Medical Research Council relating to—
 - (i) the protection of individual privacy, and
 - (ii) the circumstances in which the consent of the individual the subject of research need not be obtained, and
 - (iii) any other matters the Health Secretary considers relevant, or
 - (d) the disclosure is made to the Centre for Health Record Linkage (CHeReL), or any other similar organisation approved by the Health Secretary, for the purposes of obtaining a unique identifier to be used for—
 - (i) the funding, management, planning or evaluation of health services, or
 - (ii) any other service provided by or on behalf of a Government agency.
- (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.

17 Repeal and savings

- (1) The *Health Administration Regulation 2015* is repealed.
- (2) Any act, matter or thing that, immediately before the repeal of the *Health Administration Regulation 2015*, had effect under that Regulation continues to have effect under this Regulation.

Schedule 1 Prescribed establishments

(Clause 4(d))

Australasian Association for Clinical Biochemistry and Laboratory Medicine Inc
Australasian Association of Nuclear Medicine Specialists
Australasian College for Emergency Medicine
The Australasian College of Dermatologists
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 Limited
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 Incorporated
Australian and New Zealand Society of Nephrology
Australian Association of Social Workers Limited
Australian College of Clinical Psychologists Pty Ltd
Australian Dental Association (New South Wales Branch) Limited
Australian Healthcare and Hospitals Association
Australian Institute of Medical Scientists
Australian Orthopaedic Association
Australian Physiotherapy Association
Australian Red Cross Society
Australian Society of Medical Imaging and Radiation Therapy
The Australian Society of Otolaryngology Head & Neck Surgery Limited
Australian Society of Plastic Surgeons Incorporated
The Cardiac Society of Australia and New Zealand
Confederation of Postgraduate Medical Education Councils (CPMEC) Limited
Dietitians Association of Australia
Environmental Health Australia
Haematology Society of Australia and New Zealand
Health Information Management Association of Australia (NSW Branch) Limited
Institute of Healthcare Engineering, Australia
New South Wales Operating Theatre Association Inc

NSW Institute of Trauma and Injury Management
Occupational Therapy Australia Limited
Optometry Australia
Pharmaceutical Society of Australia
Public Health Association of Australia Inc
The Royal Australasian College of Medical Administrators
The Royal Australasian College of Physicians
The 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 Limited
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 Limited
The Transplantation Society of Australia and New Zealand Inc
The Urological Society of Australasia and New Zealand