

# Health Records and Information Privacy Regulation 2006

[2006-90]



New South Wales

## Status Information

### Currency of version

Historical version for 21 December 2007 to 30 September 2008 (accessed 26 November 2024 at 19:37)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Does not include amendments by**  
Cl 3 (3) of this Regulation (cl 3 to be repealed on 1.3.2009)  
[Health Records and Information Privacy Amendment \(Accredited Chaplains\) Regulation 2008 \(359\)](#) (GG No 100 of 22.8.2008, p 7770) (not commenced — to commence on 1.10.2008)

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 22 August 2008

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New South Wales

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# Health Records and Information Privacy Regulation 2006



New South Wales

## 1 Name of Regulation

This Regulation is the [Health Records and Information Privacy Regulation 2006](#).

## 2 Definitions

(1) In this Regulation:

**Department** means the Department of Health.

**Director-General** means the Director-General of the Department.

**the Act** means the [Health Records and Information Privacy Act 2002](#).

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

## 3 Electronic health record pilot program

(1) In this clause:

**pilot program area** means any area having the postcode number 2142, 2145, 2146, 2147, 2148, 2150, 2153, 2320, 2321, 2322, 2323, 2324, 2747, 2750 or 2770.

**the electronic health record pilot program** means the program of that name:

- (a) that provides for the electronic recording of health information about a person and the sharing of that information between health practitioners engaged in the care of the person, and
- (b) that relates to the following persons only:
  - (i) a person who, at the time the person first takes part in the program, is over 65 years of age and resides within a pilot program area,
  - (ii) a person who, at the time the person first takes part in the program, is 15 years of age or under and resides within a pilot program area,
  - (iii) a person who has been authorised by a person referred to in subparagraph (i)

or (ii) to access that person's health information or who is an authorised representative in relation to that person, and

(c) that permits any person to opt out of the program, and

(d) that does not provide for the sharing of health information between health practitioners about a person who opts out of the program, and

(e) that is otherwise conducted by the Department in accordance with the Act and on terms approved by the Director-General.

(2) Clause 15 of Schedule 1 to the Act does not apply to an organisation to the extent that the organisation is taking part in, and acting in accordance with the terms of, the electronic health record pilot program.

**Note—**

Clause 15 of Schedule 1 to the Act is a Health Privacy Principle dealing with the linkage of health records.

(3) This clause is repealed on 1 March 2009.

#### **4 Aboriginal Trust Funds Repayment Scheme exemption**

(1) In this clause:

**ATFRS agency** means the Department of Aboriginal Affairs, the State Records Authority or the Department of Premier and Cabinet.

**ATFR Scheme** means the Aboriginal Trust Funds Repayment Scheme established by the NSW Government.

(2) An ATFRS agency is exempt from clauses 1-4 and 8-11 of Schedule 1 to the Act in respect of the collection, holding, use and disclosure of health information in connection with the implementation and operation of the ATFR Scheme if:

(a) before collecting, using or disclosing any health information about a claimant or potential claimant under the ATFR Scheme, the ATFRS agency ensures that the claimant or potential claimant (or if the person is deceased, a relative of the person) is notified of the following:

(i) the fact that health information may be collected, held, used and disclosed,

(ii) the purposes for which that information may be collected, held, used and disclosed,

(iii) the persons or agencies to which that information may be disclosed,

(iv) any rights of the person under the Act relating to that collection, holding, use or disclosure, and

(b) the ATFRS agency takes reasonable steps to ensure that health information

affected by the exemption is not unreasonably or unnecessarily disclosed.

- (3) A public sector agency is exempt from clauses 10 and 11 of Schedule 1 to the Act in respect of a disclosure of health information to an ATFRS agency in connection with the implementation and operation of the ATFR Scheme.

#### **5 Certain public sector agencies to be treated as a single agency**

The following public sector agencies are to be treated as a single agency for the purposes of all of the Health Privacy Principles and any health privacy code of practice:

- (a) the Department,
- (b) the Health Administration Corporation,
- (c) area health services (within the meaning of the *Health Services Act 1997*),
- (d) statutory health corporations (within the meaning of the *Health Services Act 1997*).