

# Health Records and Information Privacy Regulation 2006

[2006-90]



New South Wales

## Status Information

### Currency of version

Historical version for 27 February 2009 to 31 December 2010 (accessed 30 June 2024 at 18:49)

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Cl 3 (3) of this Regulation (cl 3 to be repealed on 1.9.2011)  
[Health Services Amendment \(Local Health Networks\) Act 2010 No 97](#) (not commenced — to commence on 1.1.2011)

### 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](#).

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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:

**accredited chaplain**, in relation to a public hospital or health institution, means a person:

- (a) who has been accredited for the purposes of providing chaplaincy services in the hospital or institution by the chief executive of a public health organisation that is responsible for controlling that hospital or institution, and
- (b) whose accreditation has not been revoked.

**chief executive**, in relation to a public health organisation, has the same meaning as in the *Health Services Act 1997*.

**Department** means the Department of Health.

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

**health institution, public health organisation** and **public hospital** have the same meanings as in the *Health Services Act 1997*.

**the Act** means the *Health Records and Information Privacy Act 2002*.

(1A) A reference in this Regulation to a hospital or health institution controlled by a public health organisation includes a reference to a hospital or health institution that is conducted by or on behalf of such an organisation.

### Note—

Clause 2 of Part 2 of the Dictionary to the *Health Services Act 1997* contains a similar provision in relation to references in that Act to hospitals, health institutions and services controlled by a public health organisation or other body or person.

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

### **2A Accredited chaplaincy service a “health service”**

The service of an accredited chaplain in a public hospital or a health institution controlled by a public health organisation is prescribed as a health service for the purposes of the Act.

### **2B Health information may be used or disclosed for purpose of chaplaincy services**

For the purposes of clauses 10 (1) (k) and 11 (1) (l) of Schedule 1 to the Act, an organisation may use or disclose health information for a secondary purpose if:

- (a) the organisation is a public health organisation, and
- (b) the secondary purpose is the service of an accredited chaplain in a public hospital or health institution that is controlled by the organisation, and
- (c) in the case of a disclosure—the person to whom the disclosure is made is an accredited chaplain for the hospital or institution, and
- (d) the individual to whom the health information relates would reasonably expect the organisation to use or disclose the information for the secondary purpose.

### **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 September 2011.

#### **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*).