

# Health Administration Regulation 2020

[2020-471]



New South Wales

## Status Information

### Currency of version

Current version for 1 July 2021 to date (accessed 9 May 2024 at 19:34)

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—

- **Staged repeal status**

This legislation is currently due to be automatically repealed under the [Subordinate Legislation Act 1989](#) on 1 September 2025

### 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 1 July 2021

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New South Wales

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# Health Administration Regulation 2020



New South Wales

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This Regulation repeals and replaces the [Health Administration Regulation 2015](#), which would otherwise be repealed on 1 September 2020 by section 10(2) of the [Subordinate Legislation Act 1989](#).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

(1) In this Regulation—

**private health facility** has the same meaning it has in the [Private Health Facilities Act 2007](#).

**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 Response to incidents**

### **13 Relevant health services organisation**

- (1) For the purposes of section 21B(b) 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 section 21B(c) 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 21A of the Act, a reportable incident means an incident of a type set out in Appendix D of the *Incident Management Policy*, published in the Gazette on 30 October 2020.

### **14A Serious adverse event review**

For the purposes of the definition of **serious adverse event review** in section 21A of the Act, the following types of review are prescribed—

- (a) NSW Health Concise Incident Analysis set out in Appendix E of the *Incident Management Policy*, published in the Gazette on 30 October 2020,
- (b) NSW Health Comprehensive Incident Analysis set out in Appendix F of the *Incident Management Policy*, published in the Gazette on 30 October 2020,
- (c) *Systems Analysis of Clinical Incidents: The London Protocol*, published in August 2004 by Imperial College London.

### **14B Disclosure of information—relevant health services organisations**

- (1) For the purposes of section 21F(1)(f) of the Act, the following prescribe the manner in which advice or information may be disclosed—
  - (a) to obtain legal advice,
  - (b) to obtain legal representation,
  - (c) to notify an insurer, including Insurance and Care NSW, of an incident and to provide information in relation to an insurance claim.
- (2) In this clause—

**Insurance and Care NSW** has the same meaning as in the [State Insurance and Care Governance Act 2015](#).



## **15 Disclosure of information—incident reviewers**

- (1) For the purposes of section 21N(d) of the Act, a person who is or was an incident reviewer may divulge or communicate information acquired by the person in the person's capacity as an incident reviewer if the information is divulged or communicated to—
  - (a) a committee, appointed under section 20 of the Act for the purposes of any research or investigation the committee is authorised to conduct under section 23(1) of the Act, including the following committees—
    - (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 incident reviewer was appointed for the purposes of—
    - (i) informing the chief executive officer of a proposed recommendation of the incident reviewer, 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—

***incident reviewer*** has the same meaning as in section 21L of the Act.

### **15A Notification of incidents—the Act, s 21S(g)**

- (1) A relevant health services organisation (the ***original organisation***) may notify another relevant health services organisation about an incident if the original organisation is of the opinion the notification may assist the other organisation to perform a function under the Act, Part 2A.
- (2) A relevant health services organisation may notify the licensee of a private health facility about an incident if the organisation is of the opinion the notification may assist the licensee to perform a function under the [Private Health Facilities Act 2007](#), Part 4.

### **15B Exchange of information—the Act, s 21S(h)**

- (1) A relevant health services organisation (the ***original organisation***) may exchange information with another organisation if the original organisation is of the opinion the exchange of information may assist the other organisation to perform a function under the Act, Part 2A.

- (2) A relevant health services organisation may exchange information with the licensee of a private health facility if the organisation is of the opinion the exchange of information may assist the licensee to perform a function under the *Private Health Facilities Act 2007*, Part 4.

## 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