



Western Australia

Health Services Act 2016

## **Health Services (Information) Regulations 2017**



## Health Services (Information) Regulations 2017

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## Health Services (Information) Regulations 2017

### 1. Citation

These regulations are the *Health Services (Information) Regulations 2017*.

### 2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day after that day.

### 3. Disclosure of information by Department CEO (s. 216)

- (1) In this regulation —

**HREC** means a human research ethics committee constituted in accordance with, and acting in compliance with, the *National Statement on Ethical Conduct in Human Research*, as in force from time to time, issued under the *National Health and Medical Research Council Act 1992* (Commonwealth) section 7(1)(a).

- (2) The Department CEO must not disclose health information under section 216 unless —

- (a) the individual to whom the information relates consents to the disclosure; or
- (b) the Department CEO is satisfied that —
  - (i) disclosure of the information is reasonably necessary for the purpose for which it is to be disclosed; and

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- (ii) the purpose for which the information is to be disclosed cannot be achieved by providing information that is not personal information; and
  - (iii) it is impracticable to obtain the consent of the individual to whom the information relates.
- (3) In addition to the requirements of subregulation (2), the Department CEO must not disclose health information under section 216 for the purpose of health related research unless the research has been approved by an HREC.

*[Regulation 3 amended: Gazette 10 Aug 2018 p. 2863  
(disallowed: Gazette 6 Nov 2018 p. 4406).]*

**4. Disclosure of information by health service provider (s. 217)**

The chief executive of a health service provider must not disclose health information to a person under section 217(2) if —

- (a) the chief executive reasonably believes that disclosure of the information would pose a serious threat to —
  - (i) the life, health or safety of any individual; or
  - (ii) public health or safety;
- or
- (b) disclosure of the information would have an unreasonable impact on the privacy of the patient or another person; or
- (c) the patient has requested that the information not be disclosed to the person.

**5. Circumstances in which collection, use or disclosure of information is authorised (s. 220)**

- (1) For the purposes of section 220(1), the collection, use or disclosure of information is authorised in the following circumstances —

- (a) the collection, use or disclosure is reasonably necessary to lessen or prevent a serious risk to the life, health or safety of any individual;
  - (b) the collection, use or disclosure is reasonably necessary to lessen or prevent a real or immediate risk of danger to the public;
  - (c) the collection, use or disclosure is for a purpose specified in a written agreement between the State and the Commonwealth, another State or a Territory entered into by a Minister of the State or the Department CEO;
  - (d) the collection, use or disclosure is for the purposes of, or in connection with, obtaining legal advice or representation on behalf of —
    - (i) the Department CEO or the State; or
    - (ii) a health service provider; or
    - (iii) an individual who is or was a staff member of a health service provider if the individual is indemnified by the State in respect of liability incurred by the individual as a staff member of the health service provider;
  - (e) the collection, use or disclosure is for the purposes of, or in connection with, an application to the State Administration Tribunal for a guardianship order or an administration order under the *Guardianship and Administration Act 1990*.
- (2) For the purposes of section 220(1), the disclosure of information is also authorised in the following circumstances —
- (a) the disclosure is to an individual who is or was a staff member of a health service provider for the purposes of the individual's compliance with reporting requirements under another law;

- (b) the information relates to an individual who is deceased and the disclosure is in response to a written request from —
  - (i) a coroner, a coroner's registrar, a coroner's investigator or a member of the staff of a coroner's court in connection with an investigation into the death of the individual; or
  - (ii) a medical practitioner who is performing a post mortem on the body of the individual at the direction of a coroner.

**6. Conditions on disclosure of information under Part 17 of Act**

- (1) The disclosure of information under Part 17 of the Act is subject to the following conditions —
  - (a) the information must not be used for a purpose other than the purpose for which it was disclosed unless —
    - (i) the Department CEO or the chief executive of a health service provider who discloses the information authorises its use, in accordance with the Act, for that other purpose; or
    - (ii) in the case of personal information — the individual to whom it relates consents to its use for that other purpose;
  - (b) the person to whom the information is disclosed must take all reasonable steps to ensure that it is transported and stored in a way that protects it from misuse, interference, loss, unauthorised access or modification;
  - (c) in the case of information that is not personal information — the person to whom the information is disclosed must not modify or use it, or link it to other information, in a way that identifies, or might lead to the identification of, an individual to whom it relates.



- (2) A person to whom information is disclosed under Part 17 of the Act must not contravene a condition to which the disclosure is subject.

Penalty for this subregulation: a fine of \$5 000.

### **Notes**

- <sup>1</sup> This is a compilation of the *Health Services (Information) Regulations 2017* and includes the amendments made by the other written laws referred to in the following table.

#### **Compilation table**

<b>Citation</b>	<b>Gazettal</b>	<b>Commencement</b>
<i>Health Services (Information) Regulations 2017</i>	28 Nov 2017 p. 5703-5	r. 1 and 2: 28 Nov 2017 (see r. 2(a)); Regulations other than r. 1 and 2: 29 Nov 2017 (see r. 2(b))
<i>Health Services (Information) Amendment Regulations 2018</i> <sup>2</sup>	10 Aug 2018 p. 2862-3	r. 1 and 2: 10 Aug 2018 (see r. 2(a)); Regulations other than r. 1 and 2: 11 Aug 2018 (see r. 2(b))

- <sup>2</sup> Disallowed on 1 Nov 2018 see *Gazette* 6 Nov 2018 p. 4406.