



Western Australia

Health (Western Australian Cancer Register) Regulations 2011

Compare between:

[01 Jul 2016, 00-c0-01] and [10 Jan 2017, 00-d0-00]

Western Australia

Health Act 1911

Health (Western Australian Cancer Register) Regulations 2011

Part 1 — Preliminary

1. Citation

These regulations are the *Health (Western Australian Cancer Register) Regulations 2011*.

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 42nd day after that day.

3. Terms used

In these regulations, unless the contrary intention appears —

Australian Institute of Health and Welfare means the Australian Institute of Health and Welfare established under the *Australian Institute of Health and Welfare Act 1987* (Commonwealth) section 4;

cancer means a neoplastic growth of human tissue which if unchecked has the potential to spread to adjacent tissue and beyond its site of origin, including but not limited to the following —

r. 3

- (a) a malignant neoplasm, whether invasive or in situ, other than a primary invasive or in situ basal cell carcinoma or squamous cell carcinoma of the skin;
- (b) a neoplasm of the brain, spinal cord or cranial nerves, or other intracranial neoplasm, whether benign, malignant or of uncertain malignant potential;
- (c) a neoplasm classified as a gastrointestinal stromal tumour whether benign, malignant or of uncertain malignant potential;
- (d) a carcinoid or other neuroendocrine tumour whether benign, malignant or of uncertain malignant potential;
- (e) pheochromocytoma of the adrenal medulla, or other paraganglioma of the autonomic nervous system, whether benign, malignant or of uncertain malignant potential;
- (f) an ovarian neoplasm of borderline malignancy or of uncertain malignant potential;
- (g) any lymphohaematopoietic neoplasm, including but not limited to —
 - (i) leukaemia; and
 - (ii) lymphoma; and
 - (iii) plasma cell, mast cell or histiocytic neoplasm; and
 - (iv) myelodysplastic syndrome; and
 - (v) refractory anaemia; and
 - (vi) refractory cytopaenia; and
 - (vii) chronic myeloproliferative disorder; and
 - (viii) polycythaemia *rubra vera*; and
 - (ix) idiopathic and essential thrombocythaemia; and
 - (x) myelofibrosis; and
 - (xi) myelosclerosis; and

- (xii) any other immunoproliferative, lymphoproliferative or myeloproliferative disorder;

chief executive officer, in relation to a hospital or a hospice, means the person who, subject to the control of the the health service provider for the hospital or the licence holder of the hospital or the board of the hospice, is responsible for the day-to-day operations of the hospital or hospice;

corresponding officer, in relation to another State or a Territory, means a person who under the law of that State or Territory has functions that correspond or substantially correspond to the functions of the EDPH under these regulations;

EDPH means the Executive Director, Public Health;

examining specialist means a medical practitioner —

- (a) who is a pathologist, a haematologist or a clinical biochemist; and
- (b) who undertakes examinations of specimens of human origin;

health service provider has the meaning given in the *Health Services Act 2016* section 6;

hospital has the meaning given in the *Health Services Act 2016* section 8(4);

identifying information means information from which the identity of the person to whom the information relates is apparent or can reasonably be ascertained;

notified information means —

- (a) copies of reports given under Part 2; and
- (b) other information notified under that Part;

register means the Western Australian Cancer Register referred to in regulation 10.

[Regulation 3 amended in Gazette 24 Jun 2016 p. 2313.]

4. Cancer a prescribed condition of health

Cancer is prescribed as a condition of health to which Part IXA of the Act applies.

Part 2 — Notification of cases of cancer

5. Notification by examining specialist

- (1) An examining specialist who becomes aware that a specimen indicates, or is suggestive of, the existence of cancer in the person from whom it is taken must, within 30 days after becoming so aware, notify the EDPH by —
- (a) giving the EDPH a copy of any report made by the examining specialist in relation to the specimen; and
 - (b) to the extent that any copy report given under paragraph (a) does not contain the information set out in subregulation (3), giving that information in writing to the EDPH.

Penalty: a fine of not more than \$1 000 and not less than —

- (a) for a first offence, \$100;
- (b) for a second offence, \$200;
- (c) for a third or subsequent offence, \$500.

- (2) An examining specialist performing an examination of a lymph node specimen taken in the course of staging cancer, or treating a person for cancer, must, whether or not malignant cells are identified in the specimen, within 30 days after the examination, notify the EDPH by —
- (a) giving the EDPH a copy of any report made by the examining specialist in relation to the specimen; and
 - (b) to the extent that any copy report given under paragraph (a) does not contain the information set out in subregulation (3), giving that information in writing to the EDPH.

Penalty: a fine of not more than \$1 000 and not less than —

- (a) for a first offence, \$100;
- (b) for a second offence, \$200;
- (c) for a third or subsequent offence, \$500.

- (3) For the purposes of subregulations (1) and (2) the information to be notified to the EDPH in relation to any person is the following —
- (a) the full name and address of the person;
 - (b) the sex, date of birth and indigenous Australian status of the person;
 - (c) the name of the medical practitioner who referred the person for examination;
 - (d) if the person is a patient in a hospital, the name and address of the hospital.

6. Notification by radiation oncologist

- (1) A radiation oncologist who treats a person for cancer with ionising radiation or accelerated atomic particles must, within 30 days after first so treating the person, notify the EDPH in writing of the following information —
- (a) the full name and address of the person;
 - (b) the sex, date of birth and indigenous Australian status of the person;
 - (c) the type of cancer for which the person is treated and the presumed primary site of that cancer;
 - (d) the name of the medical practitioner who referred the person for treatment;
 - (e) if the person is a patient in a hospital, the name and address of the hospital.

Penalty: a fine of not more than \$1 000 and not less than —

- (a) for a first offence, \$100;
 - (b) for a second offence, \$200;
 - (c) for a third or subsequent offence, \$500.
- (2) If a radiation oncologist notifies the EDPH under subregulation (1) in relation to a person, and the EDPH has not previously received a notification under these regulations in

relation to that person, the EDPH may request the radiation oncologist to provide a copy of any pathology report the radiation oncologist has received in relation to that person.

- (3) A radiation oncologist who receives a request under subregulation (2) must comply with the request within 30 days after receiving it.

Penalty: a fine of not more than \$1 000 and not less than —

- (a) for a first offence, \$100;
- (b) for a second offence, \$200;
- (c) for a third or subsequent offence, \$500.

7. Notification by ophthalmologist

An ophthalmologist who makes a diagnosis of an ocular melanoma for which no surgical biopsy or excision or pathology test is performed must, within 30 days after making the diagnosis, notify the EDPH in writing of the information set out in Schedule 1.

Penalty: a fine of not more than \$1 000 and not less than —

- (a) for a first offence, \$100;
- (b) for a second offence, \$200;
- (c) for a third or subsequent offence, \$500.

8. Notification by hospital of cancer diagnosed other than pathologically

- (1) Subject to subregulation (2), if a patient admitted to a hospital is treated in the hospital for cancer, the chief executive officer of the hospital must, within 30 days after the patient is discharged, notify the EDPH in writing of the information set out in Schedule 1.

Penalty: a fine of not more than \$1 000 and not less than —

- (a) for a first offence, \$100;
- (b) for a second offence, \$200;

(c) for a third or subsequent offence, \$500.

- (2) The chief executive officer of a hospital in which a patient is treated for cancer is not required to make a notification under subregulation (1) if the chief executive officer reasonably believes that the cancer was diagnosed in Western Australia in the circumstances described in regulation 5(1).

9. EDPH may require information

- (1) If the EDPH is aware of a person who suffers from cancer or who is treated for cancer (the *patient*), the EDPH may request a medical practitioner or a chief executive officer of a hospital or a hospice to notify the EDPH in writing of any information set out in Schedule 1 relating to the patient that is known to the medical practitioner or chief executive officer.
- (2) A person who receives a request under subregulation (1) must comply with the request within 30 days after receiving it.

Penalty: a fine of not more than \$1 000 and not less than —

- (a) for a first offence, \$100;
(b) for a second offence, \$200;
(c) for a third or subsequent offence, \$500.

Part 3 — Western Australian Cancer Register

10. Western Australian Cancer Register

- (1) The EDPH is to keep a register to be known as the Western Australian Cancer Register.
- (2) The register is to contain all notified information.
- (3) The register may contain —
 - (a) information given to the EDPH by a corresponding officer; and
 - (b) any other information that the EDPH considers appropriate, having regard to the purposes mentioned in subregulation (4).
- (4) The register is to be kept for the following purposes —
 - (a) to monitor the number of cases of cancer in Western Australia;
 - (b) to plan, monitor and evaluate services for the control of cancer and the care of cancer patients in Western Australia;
 - (c) to compile and publish general or statistical information relating to cancer;
 - (d) to carry out research into the causes, prevention, screening and treatment of cancer.
- (5) The register is to be kept in a manner and form determined by the EDPH.

11. Offence to disclose information without authority

A person who has access to the register in the course of the person's duty must not disclose information on the register unless the disclosure —

- (a) is made with the written consent of the person to whom the information relates; or
- (b) is authorised under regulation 12; or

(c) is authorised or required under another written law.

Penalty: a fine of not more than \$1 000 and not less than —

- (a) for a first offence, \$100;
- (b) for a second offence, \$200;
- (c) for a third or subsequent offence, \$500.

12. EDPH may authorise disclosure of information

- (1) The EDPH may authorise the disclosure of information on the register —
 - (a) for the purpose of research approved in accordance with the guidelines for the conduct of medical research involving humans issued in compliance with the *National Health and Medical Research Council Act 1992* (Commonwealth) section 10; or
 - (b) for the purpose of including the information on the Cervical Cytology Register referred to in the *Health (Cervical Cytology Register) Regulations 1991* regulation 5; or
 - (c) to the Australian Institute of Health and Welfare if the EDPH is satisfied that the information is to be used solely for a purpose mentioned in regulation 10(4); or
 - (d) in a case of urgency, to assist in the diagnosis, staging or treatment of the person to whom the information relates, if it is not reasonably practicable to obtain the written consent of that person to the disclosure; or
 - (e) to a corresponding officer in another State or a Territory, if the EDPH is satisfied that the usual place of residence of the person to whom the information relates is or was in that State or Territory.
- (2) The EDPH may authorise the disclosure of information on the register, other than identifying information, for a purpose mentioned in regulation 10(4).

- (3) An authorisation under this regulation must be in writing and may be expressed to apply generally or to a specific case or class of cases.

Part 4 — Repeal

13. Regulations Repealed

The *Health (Notification of Cancer) Regulations 1981* are repealed.

Schedule 1 — Information to be notified

[r. 7, 8, 9]

1. Name of patient
2. Address of patient
3. Sex of patient
4. Date of birth of patient
5. Place and country of birth of patient
6. Indigenous Australian status of patient
7. Date of diagnosis of cancer
8. Place of residence of patient at date of diagnosis of cancer
9. Date of admission or outpatient consultation
10. Primary site of cancer (where known)
11. Morphological subtype of cancer (where known)
12. Stage or extent of cancer (where known)
13. Outcome of screening tests (where known to have been carried out)
14. Method of diagnosis of cancer

Notes

- ¹ This is a compilation of the *Health (Western Australian Cancer Register) Regulations 2011* and includes the amendments made by the other written laws referred to in the following table ^{1a}.

Compilation table

Citation	Gazettal	Commencement
<i>Health (Western Australian Cancer Register) Regulations 2011</i>	29 Apr 2011 p. 1557-73	r. 1 and 2: 29 Apr 2011 (see r. 2(a)); Regulations other than r. 1 and 2: 10 Jun 2011 (see r. 2(b))
<i>Health Services (Consequential Amendments) Regulations 2016</i> Pt. 4	24 Jun 2016 p. 2311-15	1 Jul 2016 (see r. 2 and <i>Gazette</i> 24 Jun 2016 p. 2291)

- ^{1a} [On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.](#)

Provisions that have not come into operation

<u>Citation</u>	<u>Gazettal</u>	<u>Commencement</u>
Health Regulations Amendment (Public Health) Regulations 2016 Pt. 26 ²	10 Jan 2017 p. 237-308	24 Jan 2017 (see r. 2(b) and <i>Gazette</i> 10 Jan 2017 p. 165)

- ² [On the date as at which this compilation was prepared, the Health Regulations Amendment \(Public Health\) Regulations 2016 Pt. 26 had not come into operation. It reads as follows:](#)

Part 26 — Health (Western Australian Cancer Register) Regulations 2011 amended

99. Regulations amended

[This Part amends the Health \(Western Australian Cancer Register\) Regulations 2011.](#)

100. Regulation 3 amended

[In regulation 3 delete the definition of *EDPH*.](#)

101. Various references to “EDPH” amended

In the provisions listed in the Table delete “EDPH” (each occurrence) and insert:

Chief Health Officer

Table

<u>r. 3 def. of <i>corresponding officer</i></u>	<u>r. 5(1), (2) and (3)</u>
<u>r. 6(1) and (2)</u>	<u>r. 7</u>
<u>r. 8(1)</u>	<u>r. 9(1)</u>
<u>r. 10(1), (3)(a) and (b) and (5)</u>	<u>r. 12(1) and (2)</u>

Notes:

1. The heading to amended regulation 9 is to read:

Chief Health Officer may require information

2. The heading to amended regulation 12 is to read:

Chief Health Officer may authorise disclosure of information