



**THE HEALTH (RETENTION OF HEALTH INFORMATION)  
REGULATIONS 1996**

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MICHAEL HARDIE BOYS, Governor-General

ORDER IN COUNCIL

At Wellington this 25th day of November 1996

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

PURSUANT to sections 117 and 121A of the Health Act 1956, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

ANALYSIS

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REGULATIONS

**1. Title and commencement**—(1) These regulations may be cited as the Health (Retention of Health Information) Regulations 1996.

(2) These regulations shall come into force on the 1st day of January 1997.

**2. Interpretation**—In these regulations, unless the context otherwise requires,—

“Disability services” includes goods, services, and facilities—

(a) Provided to people with disabilities for their care or support or to promote their independence; or

(b) Provided for purposes related or incidental to the care or support of people with disabilities or to the promotion of the independence of such people:

“Health information”, in relation to an identifiable individual, means—

(a) Information about the health of that individual, including that individual’s medical history:

(b) Information about any disabilities that individual has, or has had:

(c) Information about any health services or disability services that are being provided, or have been provided, to that individual:

(d) Information provided by that individual in connection with the donation, by that individual, of any body part, or any bodily substance, of that individual:

“Health services” includes goods, services, and facilities provided to people for health purposes or provided for related or incidental purposes:

“Individual” means a natural person; and includes a deceased natural person:

“Minimum retention period” has the meaning set out in regulation 5 of these regulations:

“Provider” has the meaning set out in regulation 4 of these regulations.

**3. General effect**—(1) The general effect of these regulations is to impose an obligation on providers of health or disability services to retain, for a minimum period, health information relating to identifiable individuals.

(2) That obligation is imposed on the provider that for the time being holds the health information, even though the information may have been transferred to that provider.

**4. Definition of “provider”**—In these regulations, unless the context otherwise requires, the term “provider” means—

(a) A licensee of a licensed hospital within the meaning of the Hospitals Act 1957:

(b) A controlling authority of a hospital within the meaning of the Mental Health (Compulsory Assessment and Treatment) Act 1992:

(c) A licensee of an aged persons’ home licensed under regulations for the time being in force pursuant to section 120A of the Health Act 1956:

(d) A controlling authority of a home registered under the Disabled Persons Community Welfare Act 1975:

(e) The Children’s Health Camps Board under the Children’s Health Camps Act 1972:

(f) A camp committee under the Children’s Health Camps Act 1972:

- (g) A manager of a certified institution within the meaning of the Alcoholism and Drug Addiction Act 1966:
- (h) A registered health professional within the meaning of section 4 (1) of the Health and Disability Commissioner Act 1994:
- (i) Any person who provides ambulance services to the public:
- (j) Any person employed by the School Dental Service to carry on the practice of dentistry:
- (k) Any other person who provides, or holds himself or herself or itself out as providing, health services, or disability services, or both, to the public or to any section of the public, whether or not any charge is made for those services.

**5. Definition of “minimum retention period”**—In these regulations, unless the context otherwise requires, “minimum retention period”, in relation to health information that relates to an identifiable individual, means a period of 10 years beginning on the day after the date shown in the health information as the most recent date on which a provider provided health services or disability services, or both, to that individual.

**6. Health information to be kept for minimum retention period**—(1) Subject to subclause (2) of this regulation and to regulations 7, 8, and 9 of these regulations, every provider that holds health information shall retain that health information for the minimum retention period.

(2) Subclause (1) of this regulation does not prevent a provider from transferring health information that relates to an identifiable individual to,—

- (a) Another provider; or
- (b) The individual to whom the information relates; or
- (c) If that individual is dead, the personal representative of that individual.

**7. Scope of obligation to retain health information**—(1) This regulation applies for the avoidance of doubt.

(2) Regulation 6 (1) of these regulations applies to the provider who for the time being holds health information, whether or not that provider is the provider who most recently provided the health services or disability services, or both, to the individual to whom the information relates.

(3) Regulation 6 (1) of these regulations applies to health information that came into existence before, on, or after the 1st day of January 1997.

(4) Subject to regulation 6 (2) of these regulations, where a provider is required by regulation 6 (1) of these regulations to retain, for the minimum retention period, health information relating to an identifiable individual, regulation 6 (1) of these regulations requires the provider to retain, for that period, any health information the provider holds that came into existence before the beginning of the minimum retention period and that relates to the same individual.

**8. Health information held by personal representatives and bodies in liquidation**—(1) Regulation 6 (1) of these regulations does not apply to the personal representative of a provider who is a deceased individual.

(2) Regulation 6 (1) of these regulations does not apply to a provider that is—

- (a) A company put into liquidation under the Companies Act 1955 or the Companies Act 1993; or
  - (b) An association put into liquidation under the Judicature Act 1908; or
  - (c) Any other body put into liquidation under any other Act and to which Part XVI of the Companies Act 1993 is applied.
- (3) Nothing in regulation 6 of these regulations limits or affects section 230 of the Companies Act 1955 or section 256 of the Companies Act 1993 (which relate to the keeping of accounts and records of companies put into liquidation).

**9. Form in which health information to be retained—**(1) Nothing in regulation 6 (1) of these regulations requires any health information to be retained in any particular form, and health information to which that regulation applies may be held and retained—

- (a) In such form as the provider thinks fit; and
- (b) In different forms at different times.

(2) Where the medium on which health information is kept may deteriorate before the expiry of the minimum retention period with the result that that health information cannot be read or retrieved, it shall be sufficient compliance with the requirements of regulation 6 (1) of these regulations if an accurate summary or interpretation of that information is made and retained for the balance of the minimum retention period.

**10. Other duties in relation to health information not affected—**Nothing in these regulations limits or affects any other legal duty of a provider in relation to health information.

**11. Offence—**(1) Every provider commits an offence who fails, without reasonable excuse, to comply with regulation 6 (1) of these regulations.

(2) Every provider who commits an offence against subclause (1) of this regulation is liable on summary conviction to a fine not exceeding \$500.

MARIE SHROFF,  
Clerk of the Executive Council.

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## EXPLANATORY NOTE

*This note is not part of the regulations, but is intended to indicate their general effect.*

These regulations, which come into force on 1 January 1997, require providers of health or disability services to retain health information relating to identifiable individuals for a period of not less than 10 years. That period runs from the day after the most recent date, as shown in the health information, on which an individual received health or disability services from a provider. The obligation to retain health information applies whether or not—

- (a) The provider holding the health information is the provider who most recently supplied health or disability services to the individual; and
- (b) The health information came into existence before the regulations came into force; and
- (c) The health information includes information that came into existence before the beginning of the 10-year period.

The obligation to retain health information does not prevent a provider from transferring that information to another provider or to the individual concerned or (if that person is dead) that individual's personal representative. Where a health provider transfers health information in those cases, the health provider ceases to be subject to the obligation to retain the information. Where health information is transferred to a provider, the provider holds the information subject to the obligation to retain the information as imposed by these regulations.

These regulations replace section 221 of the Health Act 1956 which makes it an offence for an agency providing health or disability services to destroy records containing health information relating to an individual. That section expires at the close of 31 December 1996.

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Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 28 November 1996.

These regulations are administered in the Ministry of Health.