



**THE HEALTH (CERVICAL SCREENING (KAITIAKI))
REGULATIONS 1995**

CATHERINE A. TIZARD, Governor-General

ORDER IN COUNCIL

At Wellington this 27th day of February 1995

Present:

THE RIGHT HON. D. C. MCKINNON PRESIDING IN COUNCIL

PURSUANT to sections 74A and 117 of the Health Act 1956, Her Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations.

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REGULATIONS

1. Title and commencement—(1) These regulations may be cited as the Health (Cervical Screening (Kaitiaki)) Regulations 1995.

(2) These regulations shall come into force on the 1st day of April 1995.

2. Interpretation—(1) In these regulations, unless the context otherwise requires,—

“The Act” means the Health Act 1956:

“National Kaitiaki Group” or “Group” means the group established pursuant to regulation 6 of these regulations:

“Protected information” means information that—

(a) Is on or from the Register; and

(b) Identifies the woman or women to whom the information relates as being Maori:

“Register” means the National Cervical Screening Register maintained by the Ministry of Health or by a person who is appointed by the Director-General for this purpose.

(2) Where any expression used in these regulations is not defined in these regulations but is defined in the Act, that expression shall, unless the context otherwise requires, have, in these regulations, the meaning given to it in the Act.

Restrictions on Disclosure, Use, and Publication of Protected Information

3. Restrictions on disclosure, use, and publication of protected information—(1) No person shall disclose, under section 74A (5) (f) of the Act, any protected information unless the information is disclosed with the approval of the Group granted under regulation 5 of these regulations.

(2) No person shall disclose or use or publish any protected information (being protected information that does not enable the identification of the woman or women to whom the information relates) unless the information is disclosed or used or published with the approval of the Group granted under regulation 5 of these regulations.

4. Applications for approval—(1) Every application for the approval of the Group to disclose or use or publish protected information—

(a) Shall be made in writing to the Director-General; and

(b) Shall be forwarded as soon as practicable by the Director-General to the convenor of the Group.

(2) Every such application shall specify—

(a) The reasons why the protected information to which the application relates is sought; and

(b) The reasons why it is necessary for the information to identify the woman or women to whom the information relates as being Maori; and

(c) Where it is proposed to use the information for research,—

(i) The purposes of the research; and

(ii) How the results of the research will be used.

5. Decisions on applications for approval—(1) Where an application made under regulation 4 of these regulations is received by the convenor of the Group, the Group shall consider the application as soon as reasonably practicable, and shall determine, in accordance with subclause (3) of this regulation, whether or not to grant the approval.

(2) Any approval granted under this regulation may be granted either unconditionally or subject to such conditions as the Group thinks fit.

(3) In determining whether or not to grant an approval under this regulation, and in determining what conditions (if any) should be imposed

on any such approval, the Group shall have regard to the following matters:

- (a) The principle of the sanctity of Te Whare Tangata:
- (b) The need for culturally appropriate protection for the taonga of protected information:
- (c) The need to ensure that protected information is used for the benefit of Maori women.
- (4) As soon as reasonably practicable after determining an application under this regulation, the convenor of the Group shall notify the Director-General in writing of the Group's decision and of the reasons for the decision.
- (5) The Director-General shall as soon as reasonably practicable inform the applicant of the Group's decision and of the reasons for the decision.

National Kaitiaki Group

6. National Kaitiaki Group—(1) The Minister shall establish a group called the National Kaitiaki Group.

(2) The function of the Group shall be to consider applications under these regulations for approval to disclose or use or publish protected information and to grant approval for such disclosure or use or publication in appropriate cases.

7. Membership of Group—(1) The Group shall consist of not fewer than 3 and not more than 6 members.

(2) The members of the Group shall be appointed by the Minister after consultation with—

- (a) The Minister of Maori Affairs; and
- (b) The Minister of Women's Affairs; and
- (c) Such other persons as the Minister considers appropriate in any particular case.

(3) Unless sooner vacating or removed from office, every member of the Group shall hold office for such term (not exceeding 3 years) as the Minister shall specify in the instrument appointing the member.

(4) Every member of the Group shall be eligible for reappointment from time to time.

(5) Subject to these regulations, every member of the Group shall be appointed on such terms and conditions as the Minister thinks fit.

8. Convenor—(1) The Minister shall from time to time appoint a member of the Group to be the convenor of the Group.

(2) Subject to subclause (3) of this regulation and to regulation 9 of these regulations, any person who is appointed as the convenor of the Group shall hold that office until that person's current term of office as a member of the Group expires (whether or not that person is subsequently reappointed as a member of the Group).

(3) Any person who is appointed as the convenor of the Group—

- (a) May at any time be removed from office as convenor by the Minister by notice in writing to that person:
- (b) May at any time resign that person's office as convenor by notice in writing addressed to the Minister.

(4) Any member of the Group may from time to time be reappointed as the convenor of the Group.

9. Vacation of office—(1) Any member of the Group may at any time be removed from office by the Minister by notice in writing to the member and to the convenor of the Group.

(2) Any member of the Group may at any time resign that person's office by notice in writing addressed to the Minister.

(3) Where the term for which a person who has been appointed to be a member of the Group expires, that person, unless sooner vacating or removed from office, shall continue to hold office, by virtue of the appointment for the term that has expired, until—

(a) That person is reappointed; or

(b) A successor to that person is appointed; or

(c) That person is informed in writing by the Minister that that person is not to be reappointed and is not to hold office until a successor is appointed.

(4) No act or proceeding of the Group or of any person acting as a member of the Group shall be invalidated because there was a vacancy in the membership of the Group at the time of the act or proceeding, or because of the subsequent discovery that there was a defect in the appointment of any person so acting, or that the person was incapable of being, or had ceased to be, such a member.

10. Procedure and servicing—(1) Except as provided in these regulations, the Group may regulate its procedure in such manner as it thinks fit.

(2) The Crown (acting through the Ministry of Health) shall provide such secretarial and other services to the Group as the Minister from time to time determines.

Offences

11. Offences—Every person commits an offence and is liable on summary conviction to a fine not exceeding \$500 who, without lawful excuse,—

(a) In contravention of regulation 3 (1) of these regulations, discloses, under section 74A (5) (f) of the Act, any protected information without the approval of the Group; or

(b) In contravention of regulation 3 (2) of these regulations, discloses or uses or publishes any protected information without the approval of the Group; or

(c) Contravenes or fails to comply with any condition imposed on any approval granted under regulation 5 of these regulations.

MARIE SHROFF,
Clerk of the Executive Council.

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 April 1995, relate to the disclosure, use, and publication of information that is contained on the National Cervical Screening Register and that relates to Maori women.

The regulations prohibit the disclosure, use, and publication of such information without the approval of a National Kaitiaki Group, which is to be appointed by the Minister of Health.

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

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These regulations are administered in the Ministry of Health.