

Reprint
as at 21 February 2018



Health (Retention of Health Information) Regulations 1996 (SR 1996/343)

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.

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Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

These regulations are administered by the Ministry of Health.

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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 1 January 1997.

2 Interpretation

In these regulations, unless the context otherwise requires,—

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 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

individual means a natural person; and includes a deceased natural person

minimum retention period has the meaning set out in regulation 5

provider has the meaning set out in regulation 4

services has the same meaning as in section 6(1) of the New Zealand Public Health and Disability Act 2000.

Regulation 2 **disability services**: revoked, on 1 January 2001, by section 111(2) of the New Zealand Public Health and Disability Act 2000 (2000 No 91).

Regulation 2 **health information** paragraph (c): amended, on 1 January 2001, by section 111(2) of the New Zealand Public Health and Disability Act 2000 (2000 No 91).

Regulation 2 **health services**: revoked, on 1 January 2001, by section 111(2) of the New Zealand Public Health and Disability Act 2000 (2000 No 91).

Regulation 2 **services**: added, on 1 January 2001, by section 111(2) of the New Zealand Public Health and Disability Act 2000 (2000 No 91).

3 General effect

- (1) The general effect of these regulations is to impose an obligation on providers of 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.

Regulation 3(1): amended, on 1 January 2001, by section 111(2) of the New Zealand Public Health and Disability Act 2000 (2000 No 91).

4 Definition of provider

In these regulations, unless the context otherwise requires, the term **provider** means—

- (a) a hospital care operator within the meaning of section 58(4) of the Health and Disability Services (Safety) Act 2001:
- (b) *[Revoked]*
- (c) a rest home operator within the meaning of section 58(4) of the Health and Disability Services (Safety) Act 2001:
- (d) a residential disability care operator (within the meaning of section 58(4) of the Health and Disability Services (Safety) Act 2001):
- (e) Children's Health Camps—The New Zealand Foundation for Child and Family Health and Development recognised by the Children's Health Camps Board Dissolution Act 1999:
- (f) *[Revoked]*
- (g) a manager of a treatment centre within the meaning of the Substance Addiction (Compulsory Assessment and Treatment) Act 2017:
- (h) a health practitioner within the meaning of section 5(1) of the Health Practitioners Competence Assurance Act 2003:
- (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, services to the public or to any section of the public, whether or not any charge is made for those services.

Regulation 4(a): substituted, on 1 October 2002, by section 58(3) of the Health and Disability Services (Safety) Act 2001 (2001 No 93).

Regulation 4(b): revoked, on 1 October 2002, by section 58(3) of the Health and Disability Services (Safety) Act 2001 (2001 No 93).

Regulation 4(c): substituted, on 1 October 2002, by section 58(3) of the Health and Disability Services (Safety) Act 2001 (2001 No 93).

Regulation 4(d): substituted, on 1 October 2002, by section 58(3) of the Health and Disability Services (Safety) Act 2001 (2001 No 93).

Regulation 4(e): substituted, on 1 April 2000, by section 9(1) of the Children's Health Camps Board Dissolution Act 1999 (1999 No 141).

Regulation 4(f): revoked, on 1 April 2000, by section 9(2) of the Children's Health Camps Board Dissolution Act 1999 (1999 No 141).

Regulation 4(g): replaced, on 21 February 2018, by section 122(3) of the Substance Addiction (Compulsory Assessment and Treatment) Act 2017 (2017 No 4).

Regulation 4(h): substituted, on 18 September 2004, by section 175(3) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Regulation 4(k): amended, on 1 January 2001, by section 111(2) of the New Zealand Public Health and Disability Act 2000 (2000 No 91).

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 services to that individual.

Regulation 5: amended, on 1 January 2001, by section 111(2) of the New Zealand Public Health and Disability Act 2000 (2000 No 91).

6 Health information to be kept for minimum retention period

- (1) Subject to subclause (2) and to regulations 7, 8, and 9, every provider that holds health information shall retain that health information for the minimum retention period.
- (2) Subclause (1) 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) 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 services to the individual to whom the information relates.
- (3) Regulation 6(1) applies to health information that came into existence before, on, or after 1 January 1997.
- (4) Subject to regulation 6(2), where a provider is required by regulation 6(1) to retain, for the minimum retention period, health information relating to an identifiable individual, regulation 6(1) requires the provider to retain, for that period, any health information the provider holds that came into existence be-

fore the beginning of the minimum retention period and that relates to the same individual.

Regulation 7(2): amended, on 1 January 2001, by section 111(2) of the New Zealand Public Health and Disability Act 2000 (2000 No 91).

8 Health information held by personal representatives and bodies in liquidation

- (1) Regulation 6(1) does not apply to the personal representative of a provider who is a deceased individual.
- (2) Regulation 6(1) 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 Companies Act 1993; or
 - (c) any other body put into liquidation under any other Act and to which Part 16 of the Companies Act 1993 is applied.
- (3) Nothing in regulation 6 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).

Regulation 8(2)(b): amended, on 1 March 2017, by section 183(b) of the Senior Courts Act 2016 (2016 No 48).

9 Form in which health information to be retained

- (1) Nothing in regulation 6(1) 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) 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).

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

Regulation 11(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Marie Shroff,
Clerk of the Executive Council.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 28 November 1996.

Reprints notes

1 *General*

This is a reprint of the Health (Retention of Health Information) Regulations 1996 that incorporates all the amendments to those regulations as at the date of the last amendment to them.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Substance Addiction (Compulsory Assessment and Treatment) Act 2017 (2017 No 4): section 122(3)

Senior Courts Act 2016 (2016 No 48): section 183(b)

Criminal Procedure Act 2011 (2011 No 81): section 413

Health Practitioners Competence Assurance Act 2003 (2003 No 48): section 175(3)

Health and Disability Services (Safety) Act 2001 (2001 No 93): section 58(3)

New Zealand Public Health and Disability Act 2000 (2000 No 91): section 111(2)

Children's Health Camps Board Dissolution Act 1999 (1999 No 141): section 9(1), (2)