

Hospital and Health Boards Amendment Regulation (No. 2) 2013

Explanatory notes for SL 2013 No. 287

made under the *Hospital and Health Boards Act 2011*

General Outline

Short title

This regulation may be cited as the *Hospital and Health Boards Amendment Regulation (No.2) 2013*.

Authorising law

Section 282 of the *Hospital and Health Boards Act 2011*.

Policy objectives and the reasons for them

The *Hospital and Health Boards Act 2011* establishes a duty of confidentiality that applies to Queensland Health staff (which includes contractors, volunteers and other persons captured by the definition of a 'designated person' under that Act).

The Act prescribes a number of exceptions to the duty of confidentiality, in recognition of circumstances where it is necessary to disclose confidential patient-identifying information. One of these exceptions – section 151(1)(b) – permits information to be disclosed if the disclosure is to an entity of the State and the disclosure is allowed under an agreement with the entity, which is prescribed under a regulation and is considered by the Chief Executive to be in the public interest. Agreements with State entities under this exception are currently prescribed in Schedule 3, Part 2 of the *Hospital and Health Boards Regulation 2012*.

Item 13 in Schedule 3, Part 2 of the *Hospital and Health Boards Regulation 2012* currently prescribes an agreement a Memorandum of Understanding (MOU) between Queensland Health and the Queensland Police Service. This agreement enables confidential, patient-identifying information to be disclosed to the Queensland Police Service in certain circumstances.

A review of the MOU was recently undertaken by Queensland Health and the Queensland Police Service. As a result, a revised MOU was signed by both parties on 26 July 2013.

The revised MOU outlines what information can be provided to the Queensland Police Service and under what circumstances, and provides Queensland Health staff with discretionary authority to report criminal activity which has occurred on Queensland Health facilities or in connection with the provision of Queensland Health services. The revised MOU also addresses out-dated terminology and names of organisational entities.

The revised MOU is an agreement between the Department of Health and the 17 Hospital and Health Services (collectively referred to as Queensland Health) and the Queensland Police Service.

The objective is to prescribe the revised MOU in the *Hospital and Health Boards Regulation 2012* to enable confidential information to be disclosed to the Queensland Police Service under section 151(1)(b) of the *Hospital and Health Boards Act 2011*.

Achievement of policy objectives

To achieve the policy objectives, the *Hospital and Health Boards Regulation 2012* is amended to omit the agreement currently prescribed at item number 13 in Schedule 3, Part 2 of that regulation and to prescribe in its place, the agreement called *Memorandum of Understanding between the Chief Executive of Queensland Health and the Queensland Police Service, Confidential Information Exchange*.

The MOU will permit designated persons to disclose confidential patient-identifying information to the Queensland Police Service without breaching the duty of confidentiality. This will include confidential information relating to alleged criminal offences and missing persons to assist with investigation and prosecution of an alleged offender and/or to locate a missing person.

Consistency with policy objectives of authorising law

The regulation is consistent with the main objectives of the *Hospital and Health Boards Act 2011*.

Inconsistency with policy objectives of other legislation

The regulation is consistent with other legislation and principles relating to confidentiality and privacy of information.

Alternative ways of achieving policy objectives

The regulation is the most effective means of allowing for the disclosure of confidential patient-identifying information to police, for the purposes of reporting criminal activity that has occurred on Queensland Health facilities or in connection with the provision of Queensland Health services.

Benefits and costs of implementation

The regulation allows for the current information exchange relationship to continue between Queensland Health and the Queensland Police Service. Further, prescribing the agreement will expand the circumstances under which information may be shared, to assist the police with the investigation of missing person cases. The regulation is not expected to impose significant financial or other costs on the agencies to which it applies.

Consistency with fundamental legislative principles

The amendment is consistent with fundamental legislative principles, as set out in section 4 of the *Legislative Standards Act 1992*.

Consultation

The Office of Best Practice Regulation was consulted in relation to the regulation meeting the requirements of the Regulatory Impact Statement System.

There has been no public consultation undertaken about the regulation, as it updates an existing agreement prescribed for the exception to the duty of confidentiality under section 151(1)(b) of the *Hospital and Health Boards Act 2011*.

Notes on provisions

Short title

Clause 1 states that this regulation may be cited as the *Hospital and Health Boards Amendment Regulation (No.2) 2013*.

Regulation amended

Clause 2 states that this regulation amends the *Hospital and Health Boards Regulation 2012*.

Amendment of Schedule 3, Part 2 (Agreements with State Entity)

Clause 3 amends Schedule 3, Part 2 of the *Hospital and Health Boards Regulation 2012* to omit the agreement that is currently prescribed at item number 13 and replace it with a revised agreement between Queensland Health and the Queensland Police Service.

ENDNOTES

- 1 Laid before the Legislative Assembly on . . .
- 2 The administering agency is Queensland Health.

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