Health Act 1911

Health (Notification of Acute Rheumatic Fever) Amendment Regulations 2014

Made by the Governor in Executive Council.

1. **Citation**

   These regulations are the *Health (Notification of Acute Rheumatic Fever) Amendment Regulations 2014*.

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 day after that day.

   [Please confirm that this commencement is suitable for the amending regulations.]

3. **Regulations amended**

   These regulations amend the *Health (Notification of Acute Rheumatic Fever) Regulations 2007*.

   **Note:**

   The following shows how the *Health (Notification of Acute Rheumatic Fever) Regulations 2007* would look after the proposed amendments, using “tracked changes”.

   **The formal amendments needed to produce the desired result will be drafted when it has been agreed how the regulations should appear after the amendments.**
To navigate to the next or previous change, use the reviewing toolbar under Tools/Track Changes.
Part 1 — Preliminary

1. Citation

These regulations are the Health (Rheumatic Heart Disease Register of Western Australia) Notification of Acute Rheumatic Fever) Regulations 2007.

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 day after that day.

3. Terms used in these regulations

In these regulations —

Aboriginal health worker means a person who is of Aboriginal or Torres Straits Islander descent —

(a) who is employed by a hospital or medical centre; and

(b) who holds, or is actively working towards, an approved VET qualification, as defined in the Vocational Education and Training Act 1996 section 5(1), that is a certificate III or IV level qualification in Aboriginal and/or Torres Strait Islander Primary Health Care;

acute rheumatic fever means an illness caused by an autoimmune response to a bacterial infection with group A streptococcus (GAS);

a delayed complication of an untreated group A streptococcus bacterial infection;

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;

Chief Executive Officer —
(a) in relation to a hospital, means the person who, subject to the control of the board or licence holder of the hospital, is responsible for the day-to-day operations of the hospital;

(b) in relation to a medical centre, means the person who is responsible for the day-to-day operations of the centre;

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;

Executive Director means the Executive Director, Public Health;

EDPH means the Executive Director, Public Health;

hospital has the meaning given in the Hospitals and Health Services Act 1927 section 2(1);

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

medical centre means a centre, post, clinic or other place for the treatment of persons suffering from illness or injury, or in need of medical, surgical or dental treatment or assistance and that is administered by, or through, one of the following —

(a) the Department as defined in the Hospitals and Health Services Act 1927 section 2(1);

(b) a board as defined in the Hospitals and Health Services Act 1927 section 2(1);

(c) the Department as defined in the Prisons Act 1981 section 3(1);

(d) a local government;

(e) the Aboriginal Health Council of Western Australia (ACN 114 220 478);
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(f) a health service that is a member of the Aboriginal Health Council of Western Australia (ACN 114 220 478);

medical specialist means a person registered under the Health Practitioner Regulation National Law (Western Australia) in a recognised specialty in the medical profession who —

(a) is a cardiologist, paediatrician or physician; or

(b) is involved in the diagnosis or treatment of persons with acute rheumatic fever or rheumatic heart disease;

obstetrician means a person who holds specialist registration under the Health Practitioner Regulation National Law (Western Australia) in the speciality of obstetrics and gynaecology;

[This definition has been changed, the specialty mentioned here appears (from the internet) to be the relevant specialty approved by the Ministerial Council. Please check this and confirm that it is correct.]

register means the register referred to in regulation 9(1);

RHD Australia means the body that is Rheumatic Heart Disease Australia, the National Coordination Unit of the Rheumatic Fever Strategy of the Commonwealth managed by the Menzies School of Health Research established under the Menzies School of Health Research Act (Northern Territory);

rheumatic heart disease means damage to the heart resulting from an episode, or more than one episode, of acute rheumatic fever.

4. Acute rheumatic fever and rheumatic heart disease a prescribed conditions of health

Acute rheumatic fever is prescribed as a condition of health to which Part IXA of the Act applies.

The following are prescribed as conditions of health to which Part IXA of the Act applies —

(a) acute rheumatic fever;
(b) rheumatic heart disease.
Part 2 — Notification of acute rheumatic fever and rheumatic heart disease

5. Persons who have a duty to give notice

(1) The following persons have a duty to give notice about a person who has acute rheumatic fever or rheumatic heart disease (the patient) —

(a) if the patient is a patient of a hospital — the chief executive officer of the hospital;

(b) if the patient is a patient of a medical centre — the chief executive officer of the medical centre;

(c) a medical practitioner or nurse practitioner, as is relevant, who —

(i) diagnoses the patient with acute rheumatic fever or rheumatic heart disease; or

(ii) is responsible for the treatment of the patient for acute rheumatic fever or rheumatic heart disease;

(d) an obstetrician responsible for the treatment of the patient, who becomes aware that the patient has acute rheumatic fever or rheumatic heart disease.

(2) A person has a duty to give notice about a patient even if the patient has been previously diagnosed with, or treated for, acute rheumatic fever or rheumatic heart disease in another State or a Territory.

6. What notice is to be given

(1) A person who has a duty to give notice about a patient under regulation 5 must give notice by causing the following to be provided to the EDPH —

(a) a copy of any diagnostic test (including an echocardiogram) carried out on the patient related to the diagnosis of the patient with, or treatment of the patient...
for, acute rheumatic fever or rheumatic heart disease; and

(b) a copy of any medical specialist’s report about the patient related to the diagnosis of the patient with, or treatment of the patient for, acute rheumatic fever or rheumatic heart disease; and

(c) if the patient suffers an episode of acute rheumatic fever, information relating to the diagnosis or treatment of the patient in a form approved by the EDPH; and

(d) if it is not included in the test, report or information provided under paragraph (a) to (c), the information set out in subregulation (2).

(2) The information referred to in subregulation (1)(d) is—

(a) the full name and address of the patient;

(b) the sex and date of birth of the patient;

(c) if the patient is a female, whether or not the patient is pregnant and if the patient is pregnant, the approximate date on which the patient is expected to give birth;

(d) whether the patient is of Aboriginal or Torres Strait Islander descent;

(e) if the patient has been referred for examination to a medical specialist, the name of the medical practitioner who made the referral;

(f) if the patient is a patient in a hospital, the name and address of the hospital;

(g) if the notice relates to an episode of acute rheumatic fever, the onset date and clinical features of the episode.

7. **When notice is to be given**

(1) A person is to give notice as required under regulation 6 —
(a) for a copy of a diagnostic test carried out on the patient — within 14 days after receiving the results of the test;

(b) for a copy of a medical specialist’s report about the patient —
   (i) within 14 days after receiving the report; or
   (ii) if the person giving the notice is the medical specialist who made the report — when the report is given to the patient, another medical practitioner, a hospital or a medical centre, or if the specialist gives the report in person to the patient, another medical practitioner, a hospital or a medical centre, within 7 days of the report being so given;

(c) if the person is an obstetrician — within 14 days after becoming aware that the patient has rheumatic heart disease;

(d) otherwise — within 14 days of the person diagnosing the patient with, or treating the patient for, acute rheumatic fever or rheumatic heart disease.

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) However, a person is not required to cause a copy of a diagnostic test or medical specialist’s report to be provided to the EDPH if the person reasonably believes that the EDPH has already been given the copy of the test or report.
5. Notification by a medical practitioner

(1) A medical practitioner who diagnoses a person as suffering from an episode of acute rheumatic fever must notify the Executive Director within 14 days after that diagnosis is made.

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) A notification under subregulation (1) in respect of a person suffering from an episode of acute rheumatic fever—

(a) must be in a form approved by the Executive Director; and

(b) must include the following information (to the extent that it is known by the medical practitioner)—

(i) the full name of the person;

(ii) the sex and date of birth of the person;

(iii) the address and contact telephone number of the person;

(iv) if the person is, or appears to be, under 18 years of age—the name, address and contact telephone number of a parent or guardian of the person;

(v) whether the person is of Aboriginal descent;

(vi) the onset date and clinical features of the episode.

8. EDPH may request information

(1) The EDPH may, in writing, request any of the following persons to cause the information specified in the request to be given to the EDPH—
It is a defence to a charge under subregulation (3) to prove that the person did not have the information requested at the relevant time.

(a) a person who has a duty to give notice under regulation 5;
(b) a dentist;
(c) any other person who, in the opinion of the EDPH, has information about a person who has acute rheumatic fever or rheumatic heart disease.

(2) The EDPH may not request information under subregulation (1) unless —

(a) the information relates to a person about whom notice has already been given under regulation 6; and
(b) the EDPH is satisfied that collecting the information is consistent with achieving the objects of Part IXA of the Act.

(3) A person who receives a request under this regulation must comply with the request within 14 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.

(4) It is a defence to a charge under subregulation (3) to prove that the person did not have the information requested at the relevant time.
6. ** Provision of information by other persons  

(1) If the Executive Director—

   (a) is notified of a diagnosis of an episode of acute rheumatic fever under regulation 5; and

   (b) believes, on reasonable grounds, that a person has information that the Executive Director considers would assist in achieving the objects of Part IXA of the Act with respect to that diagnosis,

   the Executive Director may, in writing, request the person to provide the information.

(2) A person who receives a request under subregulation (1) must provide the information to the Executive Director within 14 days after receiving the request.

   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) It is a defence to a prosecution for an offence under subregulation (2) if the person charged proves that the person did not have at the relevant time the information requested.
Part 3 — Rheumatic Heart Disease Register of Western Australia

9. Rheumatic Heart Disease Register of Western Australia

(1) The EDPH is to keep a register to be known as the Rheumatic Heart Disease Register of Western Australia or the WA RHD Register.

(2) The register is to contain —
   (a) the copies of diagnostic tests and medical specialist’s reports given under Part 2; and
   (b) other information notified under that Part.

(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 (5).

(4) The register is not to contain identifying information removed under regulation 13.

(5) The register is to be kept for the following purposes —
   (a) to identify and record all known cases of acute rheumatic fever and rheumatic heart disease in Western Australia;
   (b) to monitor and improve the uptake of, and adherence to, secondary prophylaxis by person who have been diagnosed with or treated for acute rheumatic fever or rheumatic heart disease in Western Australia;
   (c) to monitor and improve clinical follow-up, including access to medical specialists and echocardiography, for persons who have been diagnosed with or treated for
acute rheumatic fever or rheumatic heart disease in Western Australia;

(d) to use data to monitor patient outcomes and improve programme strategies for the alleviation of acute rheumatic fever and the prevention of rheumatic heart disease in Western Australia;

(e) to compile and publish general or statistical information relating to acute rheumatic fever and rheumatic heart disease;

(f) to carry out research into the causes, prevention, screening and treatment of acute rheumatic fever and rheumatic heart disease;

(g) to facilitate and assist in the establishment and maintenance of an national data collection system by RHD Australia.

(6) The register is to be kept in a manner and form determined by the EDPH.

10. 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 other than in accordance with —

(a) the written consent of the person to whom the information relates; or

(b) an authorisation under regulation 11; or

(c) an authorisation or requirement 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.
11. **EDPH may authorise disclosure of information**

   (1) The EDPH may authorise the disclosure of information on the register —

   (a) for the purpose of providing a clinical history of a person on the register, if it is not reasonably practicable to obtain the written consent of that person to the disclosure, to —

   (i) a medical practitioner, dentist, Aboriginal health worker or nurse who is treating, or has treated, the person; or

   (ii) a member of the staff at a hospital, medical centre or medical practice where a person referred to in subparagraph (ii) is employed or practices;

   or

   (b) for the purposes of research approved in accordance with 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

   (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 9(5); or

   (d) to a corresponding officer in another State or a Territory, if the EDPH is satisfied that —

   (i) the usual place of residence of the person to whom the information relates is or was in that State or Territory; or

   (ii) the person has no usual place of residence and has been diagnosed with, or treated for, acute rheumatic fever or rheumatic heart disease in Western Australia;
12. **Right to know of information on the register**

On the written request of any person, the EDPH is to —

(a) search the register for information relating to that person; and

(b) as soon as reasonably practicable, either —

(i) tell the person that there is no information relating to them on the register; or

(ii) give to the person a copy of any information relating to them on the register.

13. **Identifying information may be removed from register**

(1) A person may, in writing given to the EDPH, request that any identifying information relating to the person kept on the register be removed.

(2) The EDPH is to ensure that a request made under subregulation (1) is complied with as soon as is practicable.

(3) Information about a person which is not identifying information may be retained on the register.

14. **Persons under a legal disability**

A parent or guardian of a person who is under a legal disability may, on behalf of the person —
(a) give written consent for the purposes of regulations 10(a) and 11(1)(a); and
(b) make written requests for the purposes of regulations 12 and 13(1).

By Command of the Governor,

Clerk of the Executive Council.
I attach a seventh draft of these regulations in accordance with your further instructions of 18 February 2014.

This draft does not deal with the use of the other information that you refer to in your instructions of 18 November, as we are awaiting the legal advice that you have requested from the SSO.