



Healthcare Identifiers Regulations 2020

I, General the Honourable David Hurley AC DSC (Retd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 20 August 2020

David Hurley
Governor-General

By His Excellency's Command

Greg Hunt
Minister for Health

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Part 1—Preliminary

1 Name

This instrument is the *Healthcare Identifiers Regulations 2020*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The day after this instrument is registered.	28 August 2020

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *Healthcare Identifiers Act 2010*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

5 Definitions

Note: A number of expressions used in this instrument are defined in the Act, including the following:

- (a) healthcare provider organisation;
- (b) individual healthcare provider;
- (c) organisation maintenance officer;
- (d) responsible officer.

In this instrument:

ABN has the meaning given by section 41 of the *A New Tax System (Australian Business Number) Act 1999*.

ACN has the same meaning as in the *Corporations Act 2001*.

Section 6

Act means the *Healthcare Identifiers Act 2010*.

evidence of identity process means the process to confirm the identity of a healthcare provider organisation's responsible officer and organisation maintenance officer undertaken by:

- (a) if the responsible officer or organisation maintenance officer is an individual healthcare provider who is registered by a registration authority as a member of a health profession—the Australian Health Practitioner Regulation Agency established by the National Law; or
- (b) in any other case—the service operator.

My Health Records Act means the *My Health Records Act 2012*.

National Law has the same meaning as in the My Health Records Act.

System Operator has the same meaning as in the My Health Records Act.

verification service means a service (whether operated electronically or otherwise) that allows an entity to compare information relating to the identity of an entity with a government record.

6 Application of this instrument to partnerships, trusts and unincorporated associations

To avoid doubt, sections 36B, 36C and 36D of the Act apply to this instrument, and obligations, offences and civil penalty provisions in this instrument, in the same way as they apply to the Act, and obligations, offences and civil penalty provisions in the Act.

7 National registration authorities

For the purposes of section 8 of the Act, each of the following registration authorities is a *national registration authority*:

- (a) a National Health Practitioner Board established by the National Law;
- (b) if it is authorised under the National Law to assign healthcare identifiers to healthcare providers—the Australian Health Practitioner Regulation Agency established by the National Law.

8 Identifying information

Identifying information—individual healthcare provider

- (1) For the purposes of paragraph 7(1)(g) of the Act, the following information is identifying information of an individual healthcare provider:
 - (a) whether the healthcare provider is registered with a registration authority and the status of that registration (such as conditional, suspended, cancelled or lapsed);
 - (b) whether the healthcare provider is a member of a professional association of a kind described in paragraph 9A(1)(b) of the Act and the status of that membership (such as conditional, suspended, cancelled or lapsed);
 - (c) whether the healthcare provider is, or is likely to be, deceased;
 - (d) whether the death of the healthcare provider has been verified;

- (e) whether the healthcare provider is linked to a healthcare provider organisation and, if so, the name of the organisation and the ABN or ACN of the organisation (whichever is applicable).

Identifying information—healthcare provider organisation

- (2) For the purposes of paragraph 7(2)(e) of the Act, the following information is identifying information of a healthcare provider organisation:
- (a) whether the organisation is registered under Division 2 of Part 3 of the My Health Records Act;
 - (b) whether the organisation has notified the service operator that the organisation does not wish to use a healthcare identifier, either temporarily or permanently;
 - (c) if applicable, the organisation's business name on the register established under section 22 of the *Business Names Registration Act 2011*;
- Note: Also see paragraph 7(2)(a) of the Act which states that the name of the healthcare provider is also identifying information.
- (d) the type of healthcare service the organisation provides to another healthcare provider or a healthcare recipient;
- Note: Examples of the type of healthcare service an organisation provides include general practice services, public hospital services or diagnostic imaging services.
- (e) the name, date of birth and date of death (if applicable) of the organisation's responsible officer and organisation maintenance officer;
 - (f) the work address, email address, telephone number and fax number of the organisation's responsible officer and organisation maintenance officer;
 - (g) the identifying number assigned to the organisation's responsible officer and organisation maintenance officer by the service operator;
 - (h) whether an evidence of identity process has been undertaken for the organisation's responsible officer and organisation maintenance officer;
 - (i) if an evidence of identity process is being undertaken for the organisation's responsible officer and organisation maintenance officer—the name of the agency or service operator undertaking the process;
 - (j) if an evidence of identity process has been undertaken for the organisation's responsible officer and organisation maintenance officer—the name of the agency or service operator that undertook the process, the outcome of the process and when the process was undertaken;
 - (k) the record that specifies the network address and technical requirements permitting electronic messages to be sent to the organisation;
 - (l) any other network organisation or seed organisation (within the meaning of section 9A of the Act) that the healthcare provider organisation is linked to in a network;
 - (m) whether any individual healthcare providers are linked to the organisation and, if so, the names and other identifying information of those individual healthcare providers.

Note: Other identifying information may be required by the service operator from a healthcare provider—see section 7 of the Act.

Section 8

Identifying information—healthcare recipient

- (3) For the purposes of paragraph 7(3)(i) of the Act, the following information is identifying information of a healthcare recipient:
- (a) the telephone number of the healthcare recipient;
 - (b) the electronic address of the healthcare recipient;
 - (c) whether the identity of the healthcare recipient has been verified;
 - (d) whether a healthcare identifier assigned to the healthcare recipient has been assigned provisionally (for example, because it has not been possible to verify the identity of the healthcare recipient);
 - (e) if information relating to the identity of the healthcare recipient has been, or is to be, verified using a particular form of identification document (such as a driver's licence or passport), details of that document, including:
 - (i) the document number; and
 - (ii) the State or Territory in which the document was issued; and
 - (iii) the name of the entity that issued the document;
 - (f) if information relating to the identity of the healthcare recipient has been, or is to be, verified by using a verification service, the response of that service to any verification inquiry in relation to the healthcare recipient;
 - (g) whether the healthcare recipient is, or is likely to be, deceased;
 - (h) whether the death of the healthcare recipient has been verified;
 - (i) whether the healthcare recipient is a registered healthcare recipient for the purposes of the My Health Records Act;
 - (j) whether the healthcare recipient is an authorised representative, or nominated representative, of another healthcare recipient, and the identity of the other healthcare recipient;
 - (k) whether the healthcare recipient, or an authorised representative or nominated representative of the healthcare recipient, has made an election under clause 5 of Schedule 1 to the My Health Records Act that the healthcare recipient not be registered under that Act.

Part 2—Collection, use and disclosure of identifying information and healthcare identifiers

9 Authorisation of collection, use and disclosure—healthcare provider assisting a healthcare recipient to register for a My Health Record

- (1) This section is made for the purposes of subsection 20(1) of the Act.
- (2) For the purposes of registering a healthcare recipient in the My Health Record system, a healthcare provider is authorised to do the following:
 - (a) collect, from the healthcare recipient, the identifying information or healthcare identifier of the healthcare recipient;
 - (b) use the identifying information or healthcare identifier of the healthcare recipient;
 - (c) disclose, to the System Operator, the identifying information or healthcare identifier of the healthcare recipient.

10 Collection, use and disclosure of healthcare provider’s healthcare identifier—providing healthcare to a healthcare recipient etc.

- (1) This section is made for the purposes of subsection 25D(1) of the Act.
- (2) A healthcare provider is authorised to use, and to disclose to another entity, the healthcare identifier of a healthcare provider for the purpose of communicating or managing health information as part of:
 - (a) the provision of healthcare to a healthcare recipient; or
 - (b) the management (including the investigation or resolution of complaints), funding, monitoring or evaluation of healthcare.
- (3) The other entity is authorised to collect, use or disclose the healthcare identifier of a healthcare provider for the purpose for which the healthcare identifier was disclosed to the entity under subsection (2).

Section 11

Part 3—Requests by healthcare provider organisations to access healthcare identifiers

11 Details of responsible officer and organisation maintenance officer

- (1) This section is made for the purposes of subsections 20(4) and 25D(4) of the Act.
- (2) A healthcare provider organisation must not request the service operator to disclose a healthcare identifier to the organisation, unless:
 - (a) the identity of the organisation’s responsible officer and the identity of the organisation maintenance officer have been verified through an evidence of identity process; and
 - (b) information in relation to those officers of the kind mentioned in paragraphs 8(2)(e) to (j) of this instrument has been given to the service operator; and
 - (c) the information is accurate, up to date and complete.
- (3) If:
 - (a) the service operator receives a request to disclose a healthcare identifier from a healthcare provider organisation; and
 - (b) the request was made in contravention of subsection (2);the service operator must refuse to comply with the request.

12 Identity of individual making request

- (1) This section is made for the purposes of subsections 20(4) and (5), and 25D(4) and (5), of the Act.

Information identifying individual making a request

- (2) If a healthcare provider organisation requests the service operator to disclose a healthcare identifier to the organisation, the organisation must, if it is reasonably practicable to do so, give the service operator enough information to ensure the service operator can identify, by name, the individual making the request on behalf of the organisation without having to seek further information.

Note: For example, the information may be given as part of the data transmitted to the service operator from a healthcare provider organisation’s practice management software.

Keeping retrievable records

- (3) If it is not reasonably practicable to give the service operator the information mentioned in subsection (2) at the time the request is made, the healthcare provider organisation must:
 - (a) keep a record of the identity of the individual who accessed the healthcare identifier for the organisation from the service operator; and
 - (b) keep that record for the retrieval period for that individual; and
 - (c) if, during the retrieval period for that individual, the service operator gives the organisation written notice requiring the organisation to identify the

individual—identify the individual to the service operator within the period of 14 days after the notice is given.

- (4) Each of the following is a **retrieval period** for an individual:
- (a) any period during which the individual is authorised by the healthcare provider organisation to access healthcare identifiers on the organisation's behalf;
 - (b) if the individual ceases to be authorised by the healthcare provider organisation to access healthcare identifiers on the organisation's behalf—the period of 7 years starting on the day after the person ceased to be authorised.
- (5) A healthcare provider organisation is liable to a civil penalty if the organisation contravenes subsection (2) or (3).

Civil penalty: 50 penalty units.

Part 4 Application, saving and transitional provisions

Division 1 Application, saving and transitional provisions in relation to the commencement of this instrument

Section 13

Part 4—Application, saving and transitional provisions

Division 1—Application, saving and transitional provisions in relation to the commencement of this instrument

13 Definitions

In this Division:

commencement day means the day this instrument commences.

old regulations means the *Healthcare Identifiers Regulations 2010*, as in force immediately before the commencement day.

14 Things done under the old regulations

- (1) If:
 - (a) a thing was done for a particular purpose under the old regulations; and
 - (b) the thing could be done for that purpose under this instrument;the thing has effect for the purposes of this instrument as if it had been done for that purpose under this instrument.
- (2) Without limiting subsection (1), a reference in that subsection to a thing being done includes a reference to a notice, request or other instrument being given or made.

15 Use and disclosure of healthcare identifier of a healthcare provider

- (1) Section 10 applies in relation to the use and disclosure of information on or after the commencement day, regardless of whether the information was collected before, on or after that day.
- (2) This section does not limit the application of section 10.

16 Continued operation of certain provisions not affected

- (1) The repeal of the old regulations by this instrument does not affect the continuing operation of a provision of a version of the *Healthcare Identifiers Regulations 2010* that was not in force immediately before the commencement day if, immediately before that day, the provision had continuing operation because of Schedule 1 to the old regulations.
- (2) This section does not limit the effect of section 7 of the *Acts Interpretation Act 1901* (as it applies as a result of paragraph 13(1)(a) of the *Legislation Act 2003*).

Schedule 1—Repeals

Healthcare Identifiers Regulations 2010

1 The whole of the instrument

Repeal the instrument.