

HE301*

Poisons Act 1964

Poisons Amendment Regulations (No. 2) 2009

Made by the Governor in Executive Council under section 64 of the Act.

1. Citation

These regulations are the *Poisons Amendment Regulations (No. 2) 2009*.

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. Regulations amended

These regulations amend the *Poisons Regulations 1965*.

4. Regulation 48 amended

In regulation 48(1) delete “4” and insert:

3

5. Regulation 51A replaced

Delete regulation 51A and insert:

51A. Terms used

- (1) In this Subdivision —
authorised prescriber means a medical practitioner who is designated by the CEO as an authorised prescriber under regulation 51C(1);

drug addict means a person who —

- (a) is under a state of periodic or chronic intoxication produced by consumption of a drug of addiction or any substitute; or
- (b) is under a desire or craving to take a drug of addiction or any substitute until he or she has so satisfied that desire or craving; or
- (c) is under a psychic or physical dependence to take a drug of addiction or any substitute; or
- (d) is listed in the register of information kept under the *Drugs of Addiction Notification Regulations 1980*;

pharmacotherapy means methadone or buprenorphine, or the salts of those substances, and any preparation or admixture containing those substances, or the salts of those substances;

pharmacy means a pharmacy registered under the *Pharmacy Act 1964*;

Policies Manual means the “Clinical policies and procedures for the use of methadone and buprenorphine in the treatment of opioid dependence”, published by the Drug and Alcohol Office Western Australia from time to time;

specialist prescriber means an authorised prescriber who is designated by the CEO as a specialist prescriber under regulation 51C(2).

- (2) In this Subdivision, a reference to prescribing a drug of addiction or a pharmacotherapy is a reference to writing, issuing or authorising a prescription or document prescribing the use, sale or supply of the drug of addiction or pharmacotherapy.

6. Regulation 51AA amended

In regulation 51AA:

- (a) delete “shall,” and insert:

must,

- (b) after “he” insert:

or she

7. **Regulations 51B to 51E replaced**

Delete regulations 51B to 51E and insert:

51B. Prescription and supply in accordance with this Subdivision — general provision

- (1) A person must not prescribe or supply a drug of addiction for the treatment of a person who is a drug addict unless the person is authorised to do so under this Subdivision.
- (2) A person who is authorised under this Subdivision to prescribe or supply a drug of addiction for the treatment of a drug addict must do so in accordance with the Policies Manual, except to the extent to which an authorisation, designation or appointment of the person under this Subdivision is inconsistent with the manual.

51BA. Prescribing drugs of addiction for drug addicts other than for the treatment of drug addiction

- (1) A medical practitioner or dentist may administer a drug of addiction for the treatment of a person who is a drug addict.
- (2) A medical practitioner or dentist may prescribe or supply a drug of addiction for the treatment of a person who is a drug addict if the medical practitioner or dentist —
 - (a) has been authorised by the CEO under this subregulation to do so for that drug addict; and
 - (b) does so in accordance with the authorisation.
- (3) Subregulations (1) and (2) do not authorise a medical practitioner or dentist to prescribe or supply a pharmacotherapy for the treatment of the drug addiction of a person who is a drug addict.

51C. Designation of authorised prescribers and specialist prescribers

- (1) The CEO may designate a medical practitioner as an authorised prescriber for the purposes of this Subdivision.
- (2) The CEO may designate an authorised prescriber as a specialist prescriber for the purposes of this Subdivision.

51CA. Appointment of medical practitioner as authorised prescriber for a drug addict

- (1) The CEO may appoint an authorised prescriber to be the authorised prescriber for a person who is a drug addict.
- (2) The appointment as the authorised prescriber for a person is for the period specified in the instrument of appointment.
- (3) The instrument of appointment must be given to the authorised prescriber.

51CB. Appointment of co-prescriber for a drug addict

- (1) A specialist prescriber who is the authorised prescriber for a person who is a drug addict may appoint a medical practitioner (who need not be an authorised prescriber) to be a co-prescriber for the person.
- (2) The appointment as a co-prescriber —
 - (a) is for the period specified in the instrument of appointment, which cannot be more than 12 months; and
 - (b) ceases on the earlier of —
 - (i) the end of the period of appointment; or
 - (ii) the specialist prescriber ceasing to be the authorised prescriber for the person.
- (3) The instrument of appointment must be given to the co-prescriber and a copy must be given to the CEO.

51CC. Designations, authorisations and appointments — general rules

A designation, authorisation or appointment of a person under this Subdivision —

- (a) must be in writing; and
- (b) may be subject to conditions; and
- (c) may be amended, suspended or revoked at any time.

51D. Prescribing pharmacotherapies for the treatment of the drug addiction of a drug addict — general rules

- (1) A medical practitioner may prescribe a pharmacotherapy for the treatment of the drug addiction of a person who is a drug addict if the medical practitioner —
 - (a) is an authorised prescriber; and
 - (b) is appointed as the authorised prescriber for the person; and
 - (c) does so in accordance with that appointment.

- (2) A medical practitioner may prescribe a pharmacotherapy for the treatment of the drug addiction of a person who is a drug addict if the medical practitioner —
 - (a) is an authorised prescriber; and
 - (b) is a member of the same medical practice as the authorised prescriber appointed for the person; and
 - (c) has access to the medical records of the practice relating to the person; and
 - (d) does so in accordance with the appointment of the authorised prescriber for the person.
- (3) A medical practitioner may prescribe a pharmacotherapy for the treatment of the drug addiction of a person who is a drug addict if the medical practitioner —
 - (a) is a co-prescriber for the person; and
 - (b) does so in accordance with —
 - (i) his or her appointment as a co-prescriber; and
 - (ii) the appointment of the authorised prescriber for the person.
- (4) A medical practitioner may prescribe a pharmacotherapy for the treatment of the drug addiction of a person who is a drug addict if the medical practitioner —
 - (a) is a member of the same medical practice as a co-prescriber for the person; and
 - (b) is satisfied that the co-prescriber for the person is absent from the medical practice or is otherwise unable to prescribe a pharmacotherapy for the treatment of the drug addiction of the person; and
 - (c) has access to the medical records of the practice relating to the person; and
 - (d) does so in accordance with —
 - (i) the appointment of the co-prescriber for the person; and
 - (ii) the appointment of the authorised prescriber for the person.
- (5) A prescription for the supply of a pharmacotherapy —
 - (a) under subregulation (3) — may not cover a period of more than 3 months; or
 - (b) under subregulation (4) — may not cover a period of more than one month.

51DA. Prescribing pharmacotherapies for the treatment of the drug addiction of a drug addict — in a hospital

- (1) A medical practitioner may prescribe a pharmacotherapy for the treatment of the drug addiction of a person who is a patient in a hospital and who is a drug addict if —
 - (a) an authorised prescriber is appointed for the person; and
 - (b) the medical practitioner is satisfied that it is safe to prescribe a pharmacotherapy for the person; and
 - (c) the medical practitioner does so in accordance with the appointment of the authorised prescriber for the person.
- (2) Subregulation (1) does not authorise the medical practitioner to prescribe a pharmacotherapy unless it will be administered to the person while the person is a patient in the hospital.
- (3) For the purposes of this regulation, a person is a patient in a hospital while the person is admitted as a patient to the hospital.
- (4) A prescription for the supply of a pharmacotherapy under this regulation may not cover a period of more than one month.

51DB. Prescribing pharmacotherapies for the treatment of the drug addiction of a drug addict — in custody

- (1) A medical practitioner may prescribe a pharmacotherapy for the treatment of the drug addiction of a person who is in custody and who is a drug addict if —
 - (a) an authorised prescriber is appointed for the person; and
 - (b) the medical practitioner is satisfied that it is safe to prescribe a pharmacotherapy for the person; and
 - (c) the medical practitioner does so in accordance with the appointment of the authorised prescriber for the person.
- (2) Subregulation (1) does not authorise the medical practitioner to prescribe a pharmacotherapy unless it will be administered to the person while the person is in custody.
- (3) A prescription for the supply of a pharmacotherapy under this regulation may not cover a period of more than one month.

51DC. Prescribing pharmacotherapies for the treatment of the drug addiction of a drug addict — interim prescriptions

- (1) A specialist prescriber may prescribe a pharmacotherapy for the treatment of the drug addiction of a person who is a drug addict if —
 - (a) an authorised prescriber is appointed for the person; and
 - (b) the specialist prescriber —
 - (i) is satisfied that the person is unable to obtain a prescription for a pharmacotherapy under regulation 51D, 51DA or 51DB; and
 - (ii) is satisfied that it is safe to prescribe a pharmacotherapy for the person; and
 - (iii) does so in accordance with the appointment (whether or not it has ceased) of the authorised prescriber for the person.
- (2) The specialist prescriber must, as soon as is practicable, notify the CEO, and (where relevant) the authorised prescriber for the person, of having prescribed a pharmacotherapy for a person under this regulation.
- (3) A prescription for the supply of a pharmacotherapy under this regulation may not cover a period of more than one month.

51E. Dispensing drugs of addiction from a pharmacy

A pharmaceutical chemist or an assistant under the direct personal supervision of a pharmaceutical chemist may dispense a drug of addiction, other than a pharmacotherapy, to a person who is a drug addict.

51EA. Dispensing pharmacotherapies from a pharmacy

- (1) The CEO may authorise the dispensing of pharmacotherapies at a pharmacy.
- (2) A pharmaceutical chemist or an assistant under the direct personal supervision of a pharmaceutical chemist may dispense a pharmacotherapy to a person who is a drug addict if the pharmaceutical chemist or assistant does so in accordance with an authorisation governing the dispensing of pharmacotherapies at the pharmacy.
- (3) Pharmacotherapies cannot be dispensed at a pharmacy unless there is an authorisation applying to the dispensing of pharmacotherapies at the pharmacy.

8. Part 6 Division 2 Subdivision 2A heading inserted

Before regulation 51F insert:

Subdivision 2A — Supply and prescription of Schedule 8 poisons to persons other than drug addicts

9. Regulation 51GAA amended

In regulation 51GAA delete “Despite regulations 51B and 51F, a medical” and insert:

A medical

10. Regulation 51GB amended

In regulation 51GB(1) delete “Notwithstanding regulations 51B to 51F, a medical” and insert:

A medical

11. Part 8 inserted

After regulation 65 insert:

Part 8 — Transitional provisions

**Division 1 — Transitional provisions relating to the
*Poisons Amendment Regulations (No. 2) 2009***

66. Terms used

In this Division —

commencement day means the day on which this Division comes into operation;

prescription means a prescription or document prescribing the use, sale or supply of a drug of addiction.

67. Authorisation to prescribe drugs of addiction

(1) This regulation applies to a person —

- (a) who was authorised under regulation 51B(1) (as in force before commencement day) in relation to a drug addict; and
- (b) whose authorisation (the *old authorisation*) was in force immediately before commencement day.

- (2) The person becomes, on commencement day, a person authorised by the CEO under regulation 51BA(2) for that drug addict on the same terms and conditions as, and (subject to these regulations) for the remainder of the term of, the old authorisation.

68. Authorisation to prescribe pharmacotherapies

- (1) This regulation applies to a person —
- (a) who was authorised under regulation 51C (as in force before commencement day) in relation to a drug addict; and
 - (b) whose authorisation (the *old authorisation*) was in force immediately before commencement day.
- (2) The person becomes, on commencement day, a person appointed by the CEO under regulation 51CA(1) to be the authorised prescriber for that drug addict on the same terms and conditions as, and (subject to these regulations) for the remainder of the term of, the old authorisation.

69. Prescriptions

Nothing in regulations 51B to 51EA as inserted by the *Poisons Amendment Regulations (No. 2) 2009* (the *new provisions*), prevents a prescription that was written, issued or authorised before commencement day from being dealt with under these regulations as if it had been written, issued or authorised under the new provisions.

70. Dispensing drugs of addiction from a pharmacy

Regulation 51B (as inserted by the *Poisons Amendment Regulations (No. 2) 2009*) does not apply to or in respect of a pharmacy until the end of the 12 months after commencement day.

By Command of the Governor,

PETER CONRAN, Clerk of the Executive Council.
