

HE302*

HEALTH ACT 1911

HEALTH (SKIN PENETRATION PROCEDURE) REGULATIONS 1998

Made by the Governor in Executive Council under sections 249 and 343A (1) of the *Health Act 1911*.

Citation

1. These regulations may be cited as the *Health (Skin Penetration Procedure) Regulations 1998*.

Commencement

2. These regulations come into operation on 1 June 1998.

Interpretation

3. In these regulations, unless the context otherwise requires —

“**client**” means a person on whom a skin penetration procedure is being, or is to be carried out, whether or not for fee, gain or reward;

“**dentist**” means a person registered as a dentist under the *Dental Act 1939*;

“**establishment**” means a premises or place or a portion of a premises or place where a skin penetration procedure is, or is intended to be, carried out in the ordinary course of a practice;

“**medical practitioner**” means a person who is registered under the *Medical Act 1894*;

“**operator**” means a person who carries out or intends to carry out a skin penetration procedure;

“**owner**”, in relation to an establishment, means —

(a) the owner of the establishment; or

(b) if the owner is not the occupier of the establishment — the occupier;

“**skin penetration procedure**” means a procedure in which —

(a) the skin is cut, punctured, torn or shaved; or

(b) mucous membrane is cut, punctured or torn.

Application

4. (1) These regulations do not apply to a skin penetration procedure carried out by —

(a) a medical practitioner or a dentist, where the procedure is carried out in the practice of medicine or dentistry, respectively;

(b) a person acting under the direction or supervision of a medical practitioner or dentist, where the procedure is carried out for the purpose of the practice of medicine or dentistry, respectively;

(c) a podiatrist registered under the *Podiatrist Registration Act 1984* or a nurse registered under the *Nurses Act 1992* where the procedure is carried out in the practice of podiatry or nursing, respectively.

(2) These regulations do not apply to a place that is, or is intended to be, used solely as a surgery by a medical practitioner or a dentist.

Regulations to operate as local laws

5. These regulations apply to all districts as if they were local laws made under the Act.

Owner of an establishment to notify local government

6. The owner of an establishment must notify the local government of the area in which the establishment is, or is to be, situated of the name and address of the establishment or the intended name and address of any proposed establishment.

Penalty:

- (a) in the case of a first offence — a penalty which is not less than \$100 and not more than \$1 000;
- (b) in the case of a second offence — a penalty which is not less than \$200 and not more than \$1 000; and
- (c) in the case of a third or subsequent offence — a penalty which is not less than \$500 and not more than \$1 000.

Adoption of Code

7. (1) Under section 344A (1) of the *Health Act 1911*, the Code of Practice for Skin Penetration Procedures published by the Executive Director, Public Health, and amended from time to time, under section 344A (2) of the *Health Act 1911* (referred to in these regulations as “the Code”) is adopted in whole.

(2) Under section 344A (3) of the *Health Act 1911*, the office of the Environmental Health Services of the Health Department of Western Australia, Grace Vaughan House, 227 Stubbs Terrace, Shenton Park, Perth is prescribed as the place at which the Code is available for public inspection, without charge, during normal office hours.

Compliance with the Code

8. (1) An owner of an establishment who does not ensure that the establishment complies with the Code commits an offence under these regulations.

Penalty:

- (a) in the case of a first offence — a penalty which is not less than \$100 and not more than \$1 000;
- (b) in the case of a second offence — a penalty which is not less than \$200 and not more than \$1 000;
- (c) in the case of a third or subsequent offence — a penalty which is not less than \$500 and not more than \$1 000; and
- (d) in the case of a continuing offence — a daily penalty which is not more than \$100 and not less than \$50.

(2) The owner of an establishment who does not ensure that a skin penetration procedure carried out on the establishment is carried out in accordance with the Code commits an offence under these regulations.

Penalty:

- (a) in the case of a first offence — a penalty which is not less than \$100 and not more than \$1 000;
- (b) in the case of a second offence — a penalty which is not less than \$200 and not more than \$1 000; and
- (c) in the case of a third or subsequent offence — a penalty which is not less than \$500 and not more than \$1 000.

(3) An operator who does not carry out a skin penetration procedure in accordance with the Code commits an offence under these regulations.

Penalty:

- (a) in the case of a first offence — a penalty which is not less than \$100 and not more than \$1 000;
- (b) in the case of a second offence — a penalty which is not less than \$200 and not more than \$1 000; and
- (c) in the case of a third or subsequent offence — a penalty which is not less than \$500 and not more than \$1 000.

Infectious diseases

9. A person who knows or could reasonably have been expected to know that he or she is or may be suffering from an infectious disease must not permit an operator to carry out a skin penetration procedure on the person unless the person has told the operator that the person has or may have the disease.

Penalty:

- (a) in the case of a first offence — a penalty which is not less than \$100 and not more than \$1 000;
- (b) in the case of a second offence — a penalty which is not less than \$200 and not more than \$1 000; and
- (c) in the case of a third or subsequent offence — a penalty which is not less than \$500 and not more than \$1 000.

Health (Skin Penetration) Regulations 1987 repealed

10. *The Health (Skin Penetration) Regulations 1987** are repealed.

[* *Published in Gazette 20 March 1987, pp. 952-4.*

For amendments to 12 February 1998 see 1996 Index to Legislation of Western Australia, Table 4, p. 140.]

By Command of the Governor,

M. C. WAUCHOPE, Clerk of the Executive Council.