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Poisons Act 1964

Poisons Amendment Regulations 2012

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Poisons Amendment Regulations 2012*.

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 2 amended

- (1) In regulation 2(1) insert in alphabetical order:

authorised health practitioner, in relation to a scheduled medicine or class of scheduled medicine, means a person who is authorised under Part 2A to administer, possess, prescribe, sell, supply or use the scheduled medicine or class of scheduled medicine;

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endorsed midwife means a person registered under the *Health Practitioner Regulation National Law (Western Australia)* whose name is entered on the Register of Midwives kept under that Law and whose registration is endorsed under section 94 of that Law;

endorsed podiatrist means a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the podiatry profession whose registration is endorsed under section 94 of that Law;

podiatrist means a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the podiatry profession;

- (2) In regulation 2 in the definition of **supply** after “direction of a medical practitioner,” insert:

nurse practitioner, dentist or endorsed podiatrist

5. Part 2A Division 1 heading inserted

Before regulation 3A insert:

Division 1 — Endorsed optometrists

6. Part 2A Divisions 2 and 3 inserted

After regulation 3B insert:

Division 2 — Endorsed midwives

3C. Term used: Prescribing Formulary

In this Division —

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Prescribing Formulary means the *Prescribing Formulary for Eligible Midwives with a Scheduled Medicines Endorsement* published by the Nursing and Midwifery Board of Australia on 12 September 2011.

3D. Endorsed midwives (Act s. 23)

- (1) For the purpose of section 23(4B) of the Act, endorsed midwife is a prescribed class of endorsed health practitioner.
- (2) For the purpose of section 23(4B) of the Act, in relation to the class prescribed under subregulation (1), a medicine listed in the Prescribing Formulary is prescribed (a **prescribed medicine**).
- (3) Under section 23(4C)(a) of the Act, the authorisation given by section 23(4B) of the Act —
 - (a) in relation to a prescribed medicine, is restricted to the possession, use, supply, sale or prescription for the purposes of administration —
 - (i) by a route set out in the Prescribing Formulary for the medicine; and
 - (ii) for the duration, and subject to any restriction, for the medicine set out in the Prescribing Formulary; and
 - (iii) to treat a medical condition that is an indicator for the medicine set out in the Prescribing Formulary;
 - and
 - (b) in relation to a prescribed medicine that is a poison included in Schedule 8, is subject to the condition that an endorsed midwife may not prescribe the medicine for the purpose of the

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administration of the medicine by a person other than the endorsed midwife.

3E. Use of some medicine by endorsed midwife is not taken to be supplying it

An endorsed midwife is not to be taken to be supplying within the meaning of these regulations if the endorsed midwife uses a medicine prescribed under regulation 3D(2) in the lawful practice of his or her profession.

Division 3 — Endorsed podiatrists**3F. Term used: Medicines List**

In this Division —

Medicines List means the *National Podiatry Scheduled Medicines List* that is Appendix B to the *Guidelines for Endorsement for Scheduled Medicines* issued by the Podiatry Board of Australia on 15 March 2011.

3G. Endorsed podiatrists (Act s. 23)

- (1) For the purpose of section 23(4B) of the Act, endorsed podiatrist is a prescribed class of endorsed health practitioner.
- (2) For the purpose of section 23(4B) of the Act, in relation to the class prescribed under subregulation (1), a medicine listed in the Medicines List is prescribed (a **prescribed medicine**).
- (3) Under section 23(4C)(a) of the Act, the authorisation given by section 23(4B) of the Act —
 - (a) in relation to a prescribed medicine, is restricted to the possession, use, supply, sale or prescription —

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- (i) for the purposes of administration by a route set out in the Medicines List for the medicine; and
 - (ii) subject to any restriction for the medicine set out in the Medicines List;
- and
- (b) in relation to a prescribed medicine that is a poison included in Schedule 8, is subject to the condition that an endorsed podiatrist must not use, supply, sell or prescribe the medicine in connection with the treatment of a patient for a period exceeding 7 days.

3H. Use of some medicine by endorsed podiatrist is not taken to be supplying it

An endorsed podiatrist is not to be taken to be supplying within the meaning of these regulations if the endorsed podiatrist uses a medicine prescribed under regulation 3G(2) in the lawful practice of his or her profession.

7. Regulation 8A amended

In regulation 8A(5):

- (a) after paragraph (a) insert:
 - (ba) a nurse practitioner; or
- (b) delete paragraph (e) and insert:
 - (e) an authorised health practitioner.

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8. Regulation 21 amended

(1) In regulation 21(1):

(a) in paragraph (a) delete “or dentist,” and insert:

dentist or authorised health practitioner,

(b) delete paragraph (a)(iv)(II) and insert:

(II) the patient’s records, in any other case;

(c) in paragraph (a)(v) after “post,” insert:

or place of business of an authorised health practitioner,

(d) in paragraph (b) delete “endorsed optometrist,” and insert:

authorised health practitioner,

(2) In regulation 21(2):

(a) delete “Subregulations” and insert:

Subregulation

(b) after “medical practitioner” insert:

or nurse practitioner

9. Regulation 21A amended

In regulation 21A(2)(b) delete “medical practitioner” and insert:

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medical practitioner, dentist, pharmacist, nurse practitioner or authorised health practitioner

10. Regulation 36 amended

(1) In regulation 36(1):

(a) in paragraph (a) after “regulation 40(1)” insert:

or (1AB)

(b) in paragraph (b) delete “endorsed optometrist” and insert:

authorised health practitioner

(c) in paragraph (d)(iii) after “medical practitioner” insert:

or nurse practitioner

(2) In regulation 36(2) after “pharmacist,” (each occurrence) insert:

authorised health practitioner

11. Regulation 36AA amended

(1) In regulation 36AA(2) delete “medical practitioner,” and insert:

medical practitioner or nurse practitioner,

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- (2) In regulation 36AA(4) after “medical practitioner” (each occurrence) insert:
- or nurse practitioner
- (3) In regulation 36AA(5):
- (a) after “medical practitioner” insert:
- or nurse practitioner
- (b) after “medical practitioners” insert:
- or nurse practitioners
- (4) In regulation 36AA(6):
- (a) after “medical practitioner” insert:
- or nurse practitioner
- (b) in paragraph (a) delete “medical practitioner; and” and insert:
- medical practitioner or nurse practitioner; and
- (c) in paragraph (g) after “medical practitioner” insert:
- or nurse practitioner
- (5) In regulation 36AA(8)(g) and (10)(d) and (e) delete “medical practitioner; and” and insert:

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medical practitioner or nurse practitioner; and

12. Regulation 36A amended

(1) In regulation 36A(2):

(a) delete “endorsed optometrist” and insert:

nurse practitioner, authorised health practitioner,
podiatrist

(b) in paragraph (a) delete “endorsed optometrist’s” and
insert:

nurse practitioner’s, authorised health practitioner’s,
podiatrist’s

(c) in paragraph (c) delete “endorsed optometrist” and
insert:

nurse practitioner, authorised health practitioner,
podiatrist

(2) In regulation 36A(3) delete “endorsed optometrist” (each
occurrence) and insert:

nurse practitioner, authorised health practitioner, podiatrist

(3) In regulation 36A(4) in the definition of *emergency supplies*
delete paragraph (b) and insert:

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- (b) in the case of a nurse practitioner — the substances identified in a clinical protocol for the designated area where the nurse practitioner practices as substances that may be used by the nurse practitioner at places other than at his or her usual place of practice; or
- (c) in the case of any other category of person referred to in subregulation (3) — the substances that are ordinarily carried by persons of that category who are attending patients at places other than their usual place of practice.

13. Regulation 36B amended

In regulation 36B(1) delete “dentist, optometrist” and insert:

nurse practitioner, dentist, midwife, optometrist, podiatrist

14. Regulation 37 amended

(1) In regulation 37(1) after paragraph (da) insert:

- (db) a prescription issued by an endorsed podiatrist must include the words “For podiatric treatment only”;

(2) In regulation 37(2) delete “endorsed optometrist” and insert:

authorised health practitioner

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r. 15**15. Regulation 38A amended**

In regulation 38A(2)(b) and (c) delete “practitioner or nurse practitioner” (each occurrence) and insert:

practitioner, nurse practitioner or authorised health practitioner

16. Regulation 38 amended

In regulation 38 delete “endorsed optometrist” and insert:

authorised health practitioner

17. Regulation 38AA amended

(1) In regulation 38AA(1):

(a) delete “endorsed optometrist,” and insert:

authorised health practitioner,

(b) delete “endorsed optometrist.” and insert:

authorised health practitioner.

(2) In regulation 38AA(2) delete “endorsed optometrist” and insert:

authorised health practitioner

18. Regulation 38H amended

In regulation 38H:

(a) in paragraph (a) after “medical practitioner” insert:

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or nurse practitioner

(b) after paragraph (a) insert:

(ba) by an endorsed optometrist as a topical ocular preparation for human use; or

19. Regulation 38N amended

In regulation 38N:

(a) in paragraph (a) after “medical practitioner” insert:

or nurse practitioner

(b) after paragraph (a) insert:

(ba) in the case of nitrofurantoin, by an endorsed midwife for human use; or

20. Regulation 40 amended

(1) Delete regulation 40(1)(da) and insert:

(da) an authorised health practitioner;

(2) After regulation 40(1aa) insert:

(1AB) Until in any case such authority is withdrawn a podiatrist is authorised to procure and use a poison that is a local anaesthetic included in Schedule 4 —

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- (a) to the extent required for the purposes of the lawful practice of his or her profession; and
- (b) in accordance with these regulations.

(3) In regulation 40(1a) after “subregulation (1)” insert:

or (1AB)

21. Regulation 42 amended

(1) In regulation 42(1):

- (a) in paragraphs (f) and (ga) delete “practitioner); and” and insert:

practitioner, nurse practitioner or authorised health practitioner); and

- (b) before “profession” insert:

or her

(2) After regulation 42(1) insert:

- (2A) An authorised health practitioner is authorised to procure a poison included in Schedule 8 for the purpose of his or her profession or employment.

22. Regulation 44 amended

In regulation 44(1) in the definition of *authorised person* after “medical practitioner,” insert:

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nurse practitioner, endorsed podiatrist,

23. Regulation 44A amended

- (1) In regulation 44A(1) after “medical practitioner,” insert:

nurse practitioner,

- (2) In regulation 44A(3)(b) after “medical practitioners” insert:

or nurse practitioners

24. Regulation 50 replaced

Delete regulation 50 and insert:

50. Sch. 8 poisons in hospitals, rules as to

- (1) In a hospital, the ordering, issuing, storing and keeping of records as required by these regulations of all poisons included in Schedule 8 is the responsibility of —
- (a) if the hospital has a pharmacy department, the pharmacist in charge of the pharmacy department; or
 - (b) otherwise, the director of nursing of the hospital or another person authorised in writing by the CEO.
- (2) A poison included in Schedule 8 must not be administered to a patient in a hospital unless —

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- (a) it is administered by a medical practitioner, nurse practitioner, dentist, endorsed midwife or endorsed podiatrist; or
 - (b) the administration of the poison is authorised in writing on the medication chart of the patient by a medical practitioner, nurse practitioner, dentist or endorsed podiatrist; or
 - (c) the administration of the poison to the patient is verbally authorised by a medical practitioner, nurse practitioner, dentist or endorsed podiatrist.
- (3) If a medical practitioner, nurse practitioner, dentist or endorsed podiatrist verbally authorises the administration of a poison to a patient in a hospital the medical practitioner, nurse practitioner, dentist or endorsed podiatrist must, within 24 hours of the verbal authorisation, note the authorisation on the medication chart of the patient.

25. Regulation 51AAA amended

In regulation 51AAA(2)(b) and (c) delete “practitioner” and insert:

practitioner, nurse practitioner or endorsed podiatrist

26. Regulation 51A amended

In regulation 51A(1) in the definition of *authorised prescriber* after “medical practitioner” insert:

or nurse practitioner

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27. Regulation 51AA amended

In regulation 51AA delete “medical practitioner” (each occurrence) and insert:

medical practitioner, nurse practitioner, authorised health practitioner

28. Regulation 51BA amended

- (1) In regulation 51BA(1) delete “medical practitioner” and insert:

medical practitioner, nurse practitioner, authorised health practitioner

- (2) In regulation 51BA(2) and (3) delete “medical practitioner” (each occurrence) and insert:

medical practitioner, nurse practitioner

29. Regulation 51C amended

In regulation 51C(1) after “medical practitioner” insert:

or a nurse practitioner

30. Regulation 51CB amended

In regulation 51CB(1) after “medical practitioner” insert:

or nurse practitioner

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r. 31**31. Regulation 51D amended**

In regulation 51D(1), (2), (3) and (4):

(a) after “medical practitioner” insert:

or nurse practitioner

(b) delete “medical practitioner —” and insert:

medical practitioner or nurse practitioner —

32. Regulation 51DA amended

In regulation 51DA(1) and (2) after “medical practitioner” (each occurrence) insert:

or nurse practitioner

33. Regulation 51DB amended

In regulation 51DB(1) and (2) after “medical practitioner” (each occurrence) insert:

or nurse practitioner

34. Regulation 51F amended

(1) In regulation 51F(1), (2) and (3) after “medical practitioner” (each occurrence) insert:

or nurse practitioner

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- (2) In regulation 51F(4)(a) delete “medical practitioner;” and insert:

medical practitioner or nurse practitioner;

- (3) In regulation 51F(6) after “medical practitioner” insert:

or nurse practitioner

35. Regulation 51FA amended

In regulation 51FA in the definitions of *co-prescriber* paragraph (b) and *nominated co-prescriber* after “medical practitioner” insert:

or nurse practitioner

36. Regulation 51FB amended

- (1) Delete regulation 51FB(1)(a)(i) and insert:

- (i) is a medical practitioner or a nurse practitioner; and

- (2) In regulation 51FB(2) after “if the” insert:

person, being a

- (3) In regulation 51FB(3) and (4) delete “medical practitioner —” and insert:

medical practitioner or nurse practitioner —

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- (4) In regulation 51FB(5):
- (a) in paragraph (c) after “medical practitioner’s” insert:

or nurse practitioner’s
 - (b) in paragraphs (d) and (e) after “medical practitioner” insert:

or nurse practitioner

- (5) In regulation 51FB(6) after “medical practitioner” insert:

or nurse practitioner

37. Regulation 51FC amended

- (1) In regulation 51FC(1) and (4) after “medical practitioner” insert:

or nurse practitioner
- (2) In regulation 51FC(9) delete “medical practitioner.” and insert:

medical practitioner or nurse practitioner.

38. Regulation 51FD amended

In regulation 51FD(2)(c), (3)(b) and (4) after “medical practitioner” insert:

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or nurse practitioner

39. Regulation 51FE amended

In regulation 51FE(4)(b) and (5) after “medical practitioner” insert:

or nurse practitioner

40. Regulation 51FF amended

In regulation 51FF(5)(b) after “medical practitioner” insert:

or nurse practitioner

41. Regulation 51FG amended

(1) In regulation 51FG(3) before “a medical practitioner” insert:

a nurse practitioner or

(2) In regulation 51FG(7) delete “medical practitioner.” and insert:

medical practitioner or nurse practitioner.

42. Regulation 51FH amended

In regulation 51FH(1)(a) and (5) after “medical practitioner” insert:

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or nurse practitioner

43. Regulation 52 amended

- (1) In regulation 52(2) after “medical practitioner,” (each occurrence) insert:

nurse practitioner, endorsed podiatrist

- (2) In regulation 52(3)(a)(ii) after “medical practitioner,” insert:

a nurse practitioner, an endorsed podiatrist

44. Regulation 53 amended

In regulation 53(1) delete “dentist” and insert:

nurse practitioner, dentist, endorsed podiatrist

45. Regulation 56 amended

- (1) In regulation 56(1)(a) delete “42(1) or 42(4); or” and insert:

42(1), (2A) or (4); or

- (2) In regulation 56(2)(b) delete “42(1); or” and insert:

42(1) or (2A); or

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- (3) In regulation 56(3)(d) after “medical practitioner,” (each occurrence) insert:

nurse practitioner, endorsed midwife

46. Regulation 58 amended

- (1) In regulation 58(1) delete “dentist” and insert:

nurse practitioner, dentist, endorsed podiatrist

- (2) In regulation 58(2) delete “dentist” and insert:

nurse practitioner, dentist, authorised health practitioner

47. Regulation 64 amended

- (1) In regulation 64(2), (3) and (4) delete “endorsed optometrist” and insert:

authorised health practitioner

- (2) In regulation 64(5) delete “endorsed optometrist” and insert:

authorised health practitioner

By Command of the Governor,

R. KENNEDY, Clerk of the Executive Council.

