

HE302\*

Poisons Act 1964

## Poisons Amendment Regulations (No. 3) 2009

Made by the Governor in Executive Council.

### 1. Citation

These regulations are the *Poisons Amendment Regulations (No. 3) 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. Part 6 Division 2 Subdivision 3 heading amended

In the heading to Part 6 Division 2 Subdivision 3 delete “**certain substances**” and insert:

**stimulants**

### 5. Regulations 51G to 51GAI replaced

Delete regulations 51G to 51GAI and insert:

#### 51FA. Terms used

In this Subdivision —

**approved clinic** means a clinic approved under regulation 51FJ;

**co-prescriber**, in relation to a patient, means —

- (a) a nominated co-prescriber for the patient; or
- (b) a medical practitioner who is a co-prescriber for the patient under regulation 51FH(5);

**current clinic**, in relation to a patient, means an approved clinic that is the current clinic for the patient under regulation 51FF;

**current clinic prescriber**, in relation to a patient who has a current clinic, means an SPN practitioner who practises at that clinic;

**current prescriber**, in relation to a patient, means the SPN practitioner who is the current prescriber for the patient under regulation 51FF;

**manager**, in relation to an approved clinic, means the person specified in the clinic's approval as the manager of the clinic;

**nominated co-prescriber**, in relation to a patient, means a medical practitioner who is a nominated co-prescriber for the patient under regulation 51FH;

**SPN practitioner** means a medical practitioner who is authorised under regulation 51FG(1) to supply and prescribe stimulants and has been assigned a stimulant prescriber number;

**stimulant** means dexamphetamine or methylphenidate, or any of the salts of either of them, or any preparation or admixture containing either of them or any of their salts;

**Stimulant Prescribing Code** means the "Clinical criteria for the prescribing of stimulant medicines in Western Australia" published by the CEO from time to time.

**51FB. Who may supply or prescribe a stimulant**

- (1) A person must not supply or prescribe a stimulant unless —
  - (a) the person —
    - (i) is a medical practitioner; and
    - (ii) one of subregulations (2) to (5) applies;
  - or
  - (b) the person —
    - (i) is a pharmaceutical chemist, or an assistant under the direct personal supervision of a pharmaceutical chemist; and
    - (ii) dispenses the stimulant in accordance with regulation 52.
- (2) This subregulation applies if the medical practitioner —
  - (a) is authorised under regulation 51FG as an SPN practitioner; and

- (b) supplies or prescribes the stimulant in accordance with that authorisation.
- (3) This subregulation applies if the medical practitioner —
  - (a) is a co-prescriber for the patient; and
  - (b) supplies or prescribes the stimulant in the manner specified in the most recent notification about the patient given to the CEO under regulation 51FE.
- (4) This subregulation applies if the medical practitioner —
  - (a) is authorised under regulation 51FG(3) to supply or prescribe the stimulant to or for the patient; and
  - (b) supplies or prescribes the stimulant in accordance with that authorisation.
- (5) This subregulation applies if —
  - (a) the patient has a current prescriber or current clinic; and
  - (b) the patient —
    - (i) is an in-patient in a hospital as defined in the *Hospitals and Health Services Act 1927* section 2(1); or
    - (ii) is in custody in a prison as defined in the *Prisons Act 1981* section 3(1); or
    - (iii) is in custody in a detention centre as defined in the *Young Offenders Act 1994* section 3,and has been in the hospital, prison or detention centre for not more than 3 months; and
  - (c) the medical practitioner's practice is, or includes, treating persons at the hospital, prison or detention centre; and
  - (d) the current prescriber or a current clinic prescriber has agreed with the medical practitioner that the patient should continue to be supplied or prescribed the stimulant; and
  - (e) the medical practitioner supplies or prescribes the stimulant in the manner specified in the most recent notification about the patient given to the CEO under regulation 51FE.
- (6) Subregulation (5) ceases to apply in relation to a patient at the expiry of 3 months after the day on which the medical practitioner first supplies or prescribed stimulants to or for the patient.

**51FC. Stimulant Prescribing Code**

- (1) A medical practitioner must not supply or prescribe a stimulant unless he or she does so —
  - (a) in accordance with the Stimulant Prescribing Code; or
  - (b) in accordance with an authorisation granted under subregulation (2) or (4).
- (2) The CEO may authorise an SPN practitioner to supply or prescribe a stimulant to or for a particular patient other than in accordance with the Stimulant Prescribing Code.
- (3) An application for an authorisation under subregulation (2) must be made to the CEO in a form approved by the CEO.
- (4) The CEO may, when authorising a medical practitioner under regulation 51FG(3), also authorise that practitioner to supply or prescribe the stimulant other than in accordance with the Stimulant Prescribing Code.
- (5) The CEO must not grant an authorisation under subregulation (2) or (4) unless satisfied that there are good medical grounds for doing so.
- (6) Subject to subregulation (5), the CEO may grant, or refuse to grant, an authorisation under subregulation (2) or (4) as the CEO thinks fit.
- (7) The CEO may grant an authorisation under subregulation (2) or (4) on any terms and conditions the CEO thinks fit.
- (8) An authorisation granted under subregulation (2) extends to any co-prescriber for the patient who is named in the authorisation.
- (9) The CEO may vary or revoke an authorisation granted under subregulation (2) or (4) at any time by giving written notice to the medical practitioner.
- (10) An authorisation granted under subregulation (2) ceases if the SPN practitioner ceases to be the patient's current prescriber.

**51FD. CEO may order treatment to be terminated or varied**

- (1) If a stimulant is being supplied or prescribed to or for a patient the CEO may, by giving notice in accordance with subregulation (2), order that the supply or prescription be terminated or varied.

- (2) Notice of an order must be given in writing —
  - (a) if the patient has a current prescriber — to that prescriber; or
  - (b) if the patient has a current clinic — to the manager of that clinic; or
  - (c) if the stimulant is being prescribed by a medical practitioner authorised under regulation 51FG(3) — to that practitioner.
- (3) A person who is given a notice under subregulation (2) must give a copy of it —
  - (a) to any nominated co-prescriber for the patient; and
  - (b) if the patient is being treated by a medical practitioner as permitted under regulation 51FB(5) — to that practitioner.
- (4) A medical practitioner must not supply or prescribe a stimulant in contravention of an order made under subregulation (1).

**51FE. CEO to be notified of supply or prescription**

- (1) If an SPN practitioner supplies or prescribes a stimulant to or for a patient the practitioner must give a notification about the patient to the CEO unless the practitioner is a current prescriber or current clinic prescriber for the patient.
- (2) A current prescriber or current clinic prescriber for a patient must give an updated notification about the patient to the CEO as soon as practicable after any of the following occurs —
  - (a) there is a change in the dose, type or form of stimulant being supplied or prescribed to or for the patient;
  - (b) there is a change in the patient's name or residential address;
  - (c) in the case of a current prescriber — the prescriber ceases supplying or prescribing the stimulant to or for the patient;
  - (d) in the case of a current clinic prescriber — all current clinic prescribers at the clinic cease supplying or prescribing the stimulant to or for the patient.
- (3) A current clinic prescriber is not required to give a notification under subregulation (2) as a result of the occurrence of a particular event if another prescriber at the clinic has given a notification as a result of that occurrence.

- (4) A person who gives a notification under subregulation (1) or (2) must give a copy of it —
  - (a) to any nominated co-prescriber for the patient; and
  - (b) if the patient is being treated by a medical practitioner as permitted under regulation 51FB(5) — to that practitioner.
- (5) A medical practitioner authorised under regulation 51FG(5) who supplies or prescribes a stimulant to or for a patient must —
  - (a) give a notification about the patient to the CEO; and
  - (b) give a copy of the notification to the patient's current prescriber or the manager of the patient's current clinic.
- (6) A notification for the purposes of this regulation must be in a form approved by the CEO.

**51FF. Current prescriber and current clinic**

- (1) When the CEO receives a notification about a patient under regulation 51FE(1) —
  - (a) unless paragraph (b) applies — the practitioner giving the notification becomes the patient's current prescriber; or
  - (b) if —
    - (i) the practitioner giving the notification practises at an approved clinic; and
    - (ii) the supply or prescription of the stimulant is in accordance with the Stimulant Prescribing Code,the clinic becomes the patient's current clinic.
- (2) If, when the CEO receives a notification under regulation 51FE(1), the patient already has a current prescriber or current clinic, the CEO is to give written notice of the new notification to the current prescriber or the manager of the current clinic.
- (3) A patient's current prescriber ceases to be his or her current prescriber if —
  - (a) the prescriber is given a notice under subregulation (2); or
  - (b) the practitioner gives an updated notification under regulation 51FE(2)(c); or
  - (c) the current prescriber is given a notice under regulation 51FD ordering that the supply or prescription of the stimulant to or for the patient be terminated.

- (4) A patient's current clinic ceases to be his or her current clinic if —
  - (a) the manager of the clinic is given a notice under subregulation (2); or
  - (b) a current clinic prescriber gives an updated notification under regulation 51FE(2)(d); or
  - (c) the manager of the clinic is given a notice under regulation 51FD ordering that the supply or prescription of the stimulant to or for the patient be terminated.
- (5) A person who is given a notice under subregulation (2) must give a copy of it —
  - (a) to any nominated co-prescriber for the patient; and
  - (b) if the patient is being treated by a medical practitioner as permitted under regulation 51FB(5) — to that practitioner.

**51FG. Authorisation of practitioners**

- (1) The CEO may authorise a medical practitioner to supply and prescribe stimulants to or for the practitioner's patients.
- (2) Each medical practitioner authorised under subregulation (1) is to be assigned a unique stimulant prescriber number.
- (3) The CEO may authorise a medical practitioner who is not an SPN practitioner to supply or prescribe a stimulant to or for a particular patient on a particular occasion or during a particular period.
- (4) An application for an authorisation under subregulation (1) or (3) must be made to the CEO in a form approved by the CEO.
- (5) The CEO may grant, or refuse to grant, an authorisation under subregulation (1) or (3) as the CEO thinks fit.
- (6) The CEO may grant an authorisation under subregulation (1) or (3) on any terms and conditions the CEO thinks fit.
- (7) The CEO may vary or revoke an authorisation under subregulation (1) or (3) at any time by giving written notice to the medical practitioner.

**51FH. Co-prescribers**

- (1) A current prescriber or current clinic prescriber for a patient may, by giving an updated notification under regulation 51FE to the CEO —
  - (a) nominate another medical practitioner to be a co-prescriber for the patient; and
  - (b) cancel any such nomination.
- (2) The nominating prescriber must give a copy of the updated notification given under subregulation (1) to the nominated co-prescriber.
- (3) A nominated co-prescriber who was nominated by a current prescriber ceases to be a nominated co-prescriber if —
  - (a) the current prescriber ceases to be the patient's current prescriber; or
  - (b) the current prescriber cancels the nomination under subregulation (1)(b); or
  - (c) the CEO cancels the co-prescriber's nomination under subregulation (7).
- (4) A nominated co-prescriber who was nominated by a current clinic prescriber, ceases to be a nominated co-prescriber if —
  - (a) the clinic ceases to be the patient's current clinic; or
  - (b) any of the patient's current clinic prescribers cancels the nomination under subregulation (1)(b); or
  - (c) the CEO cancels the co-prescriber's nomination under subregulation (7).
- (5) Subject to subregulation (6), if there is a nominated co-prescriber for a patient, any other medical practitioner who practises in the same medical practice as the nominated co-prescriber (a *colleague*) is also a co-prescriber for the patient.
- (6) Subregulation (5) does not apply in relation to a colleague of the nominated co-prescriber who is named or described in the nomination as being excluded from being a co-prescriber under subregulation (5).
- (7) The CEO may cancel the nomination of a co-prescriber by giving written notice to the co-prescriber.
- (8) The CEO must give a copy of a notice given under subregulation (7) to —
  - (a) if the co-prescriber was nominated by a current prescriber — that person; or



- (b) if the co-prescriber was nominated by a current clinic prescriber — the manager of the clinic.

**51FJ. Approval of public sector clinics**

- (1) The CEO may approve a clinic —
  - (a) that is, or is part of, a public hospital; and
  - (b) at which —
    - (i) treatment is provided for patients who may, in accordance with the Stimulant Prescribing Code, be treated with a stimulant; and
    - (ii) each patient is not treated exclusively by one SPN practitioner.
- (2) An approval must name an SPN practitioner practising at the clinic, or another senior member of the staff of the clinic, as the manager of the clinic.
- (3) The manager of an approved clinic must notify the CEO before, or as soon as practicable after, any of the following occurs —
  - (a) an SPN practitioner commences to practise at the clinic;
  - (b) an SPN practitioner ceases to practise at the clinic;
  - (c) there is a change in the name or address of the clinic.
- (4) An application for an approval under subregulation (1) must be made to the CEO in a form approved by the CEO.
- (5) The CEO may grant, or refuse to grant, an approval under subregulation (1) as the CEO thinks fit.
- (6) The CEO may grant an approval under subregulation (1) on any terms and conditions the CEO thinks fit.
- (7) The CEO may vary or revoke an approval under subregulation (1) at any time by giving written notice to the manager of the clinic.

**51FK. Change of manager**

- (1) If the person named in an approval as the manager of an approved clinic (the *former manager*) —
  - (a) ceases to be an SPN practitioner practising at the clinic or a senior member of the staff of the clinic; or
  - (b) for any other reason ceases to be the manager of the clinic,

notice of that event must be given to the CEO together with details of the SPN practitioner practising at the clinic or senior member of the staff of the clinic who is to become the manager of the clinic (the *new manager*).

- (2) The notice required by subregulation (1) —
  - (a) may be given by the former manager, the new manager or an SPN practitioner practising at the clinic; and
  - (b) must be given before, or within 14 days after, the current manager ceases to be manager.
- (3) On being notified of a change of manager the CEO must update the clinic's approval accordingly.
- (4) During any period after the former manager ceases to be manager but before the CEO is notified of the new manager, the most senior of the SPN practitioners practising at the clinic is to be taken to be the manager of the clinic.

**6. Part 6 Division 2 Subdivision 4 heading inserted**

Before regulation 51GA insert:

**Subdivision 4 — Supply and prescription of other poisons**

By Command of the Governor,

R. KENNEDY, Clerk of the Executive Council.

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