Drugs, Poisons and Controlled Substances Amendment Regulations 2010
S.R. No. 131/2010

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The Governor in Council makes the following Regulations:
Dated: 26 October 2010
Responsible Minister:
DANIEL ANDREWS
Minister for Health

MATTHEW McBEATH
Clerk of the Executive Council

1 Objective
The objective of these Regulations is to amend the Drugs, Poisons and Controlled Substances Regulations 2006—
(a) as a consequence of the enactment of the Health Practitioner Regulation National Law (Victoria) Act 2009, which implements the Health Practitioner Regulation National Law as a law in Victoria; and
(b) to make other miscellaneous amendments.

2 Authorising provisions
These Regulations are made under sections 129, 131, 132, 132A and 132B of the Drugs, Poisons and Controlled Substances Act 1981.
3 Principal Regulations

In these Regulations, the Drugs, Poisons and Controlled Substances Regulations 2006 are called the Principal Regulations.

4 Definitions

In regulation 4 of the Principal Regulations—

(a) for the definition of authorised optometrist substitute—

"authorised optometrist means a registered optometrist whose registration is endorsed under section 94 of the Health Practitioner Regulation National Law;";

(b) for the definition of authorised podiatrist substitute—

"authorised podiatrist means a registered podiatrist whose registration is endorsed under section 94 of the Health Practitioner Regulation National Law;";

(c) for the definition of nurse substitute—

"nurse means—

(a) a registered nurse;

(b) an enrolled nurse other than an enrolled nurse who has a notation on his or her registration indicating that he or she is not qualified to administer medication;";

(d) for the definition of pharmacy substitute—

"pharmacy has the same meaning as it has in the Pharmacy Regulation Act 2010;";
(e) for the definition of *pharmacy business* substitute—

"*pharmacy business* has the same meaning as it has in the *Pharmacy Regulation Act 2010*;";

(f) for the definition of *pharmacy department* substitute—

"*pharmacy department* has the same meaning as it has in the *Pharmacy Regulation Act 2010*;"

(g) for the definition of *registered dental hygienist* substitute—

"*registered dental hygienist* means a person registered under the Health Practitioner Regulation National Law—

(a) to practise in the dental profession as a dental hygienist (other than as a student); and

(b) in the dental hygienists division of the Register of Dental Practitioners;"

(h) for the definition of *registered dental therapist* substitute—

"*registered dental therapist* means a person registered under the Health Practitioner Regulation National Law—

(a) to practise in the dental profession as a dental therapist (other than as a student); and

(b) in the dental therapists division of the Register of Dental Practitioners;".
5 New definitions inserted

In regulation 4 of the Principal Regulations, **insert** the following definitions—

"**authorised registered nurse** means a registered nurse (Division 1) whose registration is endorsed under section 94 of the Health Practitioner Regulation National Law;

**enrolled nurse** means a person registered under the Health Practitioner Regulation National Law—

(a) to practise in the nursing and midwifery profession as a nurse (other than as a student); and

(b) in the enrolled nurses division of the Register of Nurses;

**midwife** means a person registered under the Health Practitioner Regulation National Law—

(a) to practise in the nursing and midwifery profession as a midwife (other than as a nurse or student); and

(b) in the Register of Midwives kept for that profession;

**registered oral health therapist** means a person registered under the Health Practitioner Regulation National Law—

(a) to practice in the dental profession as an oral health therapist (other than as a student); and

(b) in the oral health therapists division of the Register of Dental Practitioners;".
6 Possession of Schedule 4 poisons, Schedule 8 poisons and Schedule 9 poisons

(1) In item 4 in Column 1 of the Table in regulation 5(1) of the Principal Regulations, for "or nurse practitioner" substitute ", nurse practitioner or authorised registered nurse".

(2) In item 5 in Column 1 of the Table in regulation 5(1) of the Principal Regulations, for "or nurse practitioner" substitute ", nurse practitioner or authorised registered nurse".

(3) In item 19 in Column 1 of the Table in regulation 5(1) of the Principal Regulations, after "nurse" insert "or midwife".

(4) In item 20 in Column 1 of the Table in regulation 5(1) of the Principal Regulations, for "or registered dental therapist" substitute ", registered dental therapist or registered oral health therapist".

(5) In item 20 in Column 2 of the Table in regulation 5(1) of the Principal Regulations, for "or registered dental therapist" substitute ", registered dental therapist or registered oral health therapist".

(6) In regulation 5(2) of the Principal Regulations, after "nurse" (where first and secondly occurring) insert "or midwife".

(7) In regulation 5(3) of the Principal Regulations, for "nurse or class of nurses" substitute "nurse, class of nurses, midwife or class of midwife".

(8) In regulation 5(4)(b) of the Principal Regulations, after "nurse" (where first occurring) insert "or midwife".
7 New Regulation 9A inserted

After regulation 9 of the Principal Regulations insert—

"9A Patient identity and therapeutic need to be determined—authorised registered nurse

(1) An authorised registered nurse must not administer or supply a Schedule 8 poison unless—

(a) that poison is for the treatment of a person under his or her care; and
(b) he or she has taken all reasonable steps to ascertain the identity of that person; and
(c) he or she has taken all reasonable steps to ensure a therapeutic need exists for that poison.

Penalty: 100 penalty units.

(2) An authorised registered nurse must not administer or supply a Schedule 4 poison unless—

(a) that poison is for the treatment of a person under his or her care; and
(b) he or she has taken all reasonable steps to ensure a therapeutic need exists for that poison.

Penalty: 100 penalty units."

8 Notification of fraudulent obtaining of drugs or poisons

After regulation 14(4) of the Principal Regulations insert—

"(5) An authorised registered nurse who suspects or has reason to believe that a person has obtained from him or her by means of a false
pretence a Schedule 8 poison or Schedule 4 poison must immediately inform the Secretary and a member of the Victoria Police of that suspicion or belief.

Penalty: 50 penalty units.

9 Pharmacist administration, sale or supply authorised from outside Victoria

In regulation 17(a) of the Principal Regulations—
(a) omit "medicine, nursing,;"
(b) omit ", dentistry, optometry or podiatry".

10 Disclosure of drug use within previous 8 weeks required

In regulation 24(1) of the Principal Regulations, for "dentist or nurse practitioner" substitute "dentist, nurse practitioner or authorised registered nurse".

11 Style and required particulars for prescriptions

In regulation 26(3)(g)(ii) of the Principal Regulations, for "podiatrist or nurse" substitute "podiatrist, nurse or midwife".

12 Containers of drugs to be labelled with certain details

(1) In regulation 29(2)(c) of the Principal Regulations, for "podiatrist or nurse" substitute "podiatrist, nurse or midwife".

(2) In regulation 29(3) of the Principal Regulations, after "nurse practitioner" insert "or authorised registered nurse".

(3) In regulation 29(4) of the Principal Regulations, after "nurse practitioner" (wherever occurring) insert "or authorised registered nurse".

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7
(4) In regulation 29(4)(b) of the Principal Regulations, for "podiatrist or nurse" substitute "podiatrist, nurse or midwife".

(5) In regulation 29(6)(b) of the Principal Regulations, for "podiatrist or nurse" substitute "podiatrist, nurse or midwife".

13 General security requirement—Schedule 4 poisons

(1) In regulation 34(2)(b) of the Principal Regulations, for "podiatrist or nurse" substitute "podiatrist, nurse or midwife".

(2) In regulation 34(4)(c) of the Principal Regulations, after "nurse" insert "or midwife".

14 Storage of Schedule 8 and Schedule 9 poisons

In regulation 35(6)(c) of the Principal Regulations, after "nurse" insert "or midwife".

15 Persons required to keep records

In regulation 39(c) of the Principal Regulations, after "nurse" insert "or midwife".

16 Details to be contained in records

In regulation 40(1)(h) of the Principal Regulations, for "or nurse" substitute ", nurse or midwife".

17 Use of drugs and poisons restricted to person or animal for whom they were supplied

In regulation 45(2) of the Principal Regulations, after "nurse practitioner" insert "or authorised registered nurse".

18 Administration of drugs and poisons by a nurse

(1) In the heading to regulation 47 of the Principal Regulations, after "nurse" insert "or midwife".
(2) In regulation 47(1) of the Principal Regulations, after "nurse" (wherever occurring) insert "or midwife".

(3) In regulation 47(2) of the Principal Regulations, after "nurse" (where first occurring) insert "or midwife".

(4) In regulation 47(2)(c) of the Principal Regulations, after "to the nurse" insert "or midwife".

(5) In regulation 47(2)(d) of the Principal Regulations, after "nurse" insert "or midwife".

(6) In regulation 47(3) of the Principal Regulations, after "nurse" (where first occurring) insert "or midwife".

(7) In regulation 47(3)(c) of the Principal Regulations, after "to the nurse" insert "or midwife".

(8) In regulation 47(3)(d) of the Principal Regulations, after "nurse" insert "or midwife".

19 Exceptions

(1) In regulation 51(2)(a) of the Principal Regulations, for "dentist or nurse" substitute "dentist, nurse or midwife".

(2) In regulation 51(3)(a) of the Principal Regulations, for "dentist or nurse" substitute "dentist, nurse or midwife".

(3) In regulation 51(4)(a) of the Principal Regulations, for "dentist or nurse" substitute "dentist, nurse or midwife".
20 Requirement for warrants

After regulation 53(2) of the Principal Regulations insert—

"(3) A nurse practitioner acting in accordance with the instruction of a registered medical practitioner who holds a warrant may use, supply or prescribe an ovulatory stimulant, a prostaglandin, a retinoid or thalidomide with respect to a specific patient in accordance with the authorisation given by the warrant.".

21 Warrant number to be included in any prescription

For regulation 54(2) of the Principal Regulations substitute—

"(2) A registered medical practitioner or nurse practitioner who prescribes an ovulatory stimulant, a prostaglandin, a retinoid or thalidomide on the direction of the warrant holder must include on the prescription—

(a) the name of the registered medical practitioner who holds the warrant; and

(b) the warrant number.

Penalty: 10 penalty units.".

22 New regulation 58A inserted

After regulation 58 of the Principal Regulations insert—

"58A Therapeutic need to be determined—authorised registered nurses

An authorised registered nurse must not administer or supply a Schedule 3 poison unless—

(a) that poison is for the treatment of a person under his or her care; and
(b) he or she has taken all reasonable steps to ensure a therapeutic need exists for that poison.

Penalty: 50 penalty units.".

23 Requirements to supply

In regulation 63(1) of the Principal Regulations, after "nurse practitioner," insert "an authorised registered nurse, ".

24 Forms DP1 and DP2A amended

(1) In Form DP1 in Schedule 2 to the Principal Regulations omit—

(a) "Occupation"; and

(b) "Height".

(2) In Form DP2A in Schedule 2 to the Principal Regulations omit—

(a) "Name and address of hospital where patient is undergoing treatment (if applicable)"; and

(b) "Height".

25 Statute law revision

(1) In regulation 22B(4) of the Principal Regulations, for "effect" substitute "effect.".

(2) In Form DP2 in Schedule 2 to the Principal Regulations, for "Regulations 19(1)" substitute "Regulation 19(1)".

(3) In Form DP3 in Schedule 2 to the Principal Regulations, for "Regulation 20" substitute "Regulations 20".
ENDNOTES