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| Supply to residential aged care |
| (Clarification of issues) |
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# Introductory notes

The *Drugs Poisons and Controlled Substances Act 1981* (the Act) and the Drugs Poisons and Controlled Substances Regulations 2017 (the regulations) indicate who may possess Schedule 4 and 8 poisons; the extent to which possession is lawful; and the legislative requirements for use, storage and supply of Schedule 4 and 8 poisons. Current versions of the Act and the regulations, which should be considered in concert and not in isolation, can be accessed at [Victorian Law Today](http://www.legislation.vic.gov.au/) <http://www.legislation.vic.gov.au/>.

This is one of a series of documents prepared by Medicines and Poisons Regulation (MPR) to assist multiple or specific categories of health practitioners to understand the more common legislative requirements. Refer to the [Medicines and poisons webpage](http://www.health.vic.gov.au/dpcs) <http://www.health.vic.gov.au/dpcs> on the Health.vic website for other ‘[Documents to print or download](https://www.health.vic.gov.au/drugs-and-poisons/documents-and-forms-to-print-or-download-medicines-and-poisons-regulation)’ and for a link to the Poisons Standard, which contains details of poisons schedules plus labelling and packaging requirements.

# Clarifying the meaning of key terms

The following explanations are provided in relation to terms that are in common use or contained within the Act and regulations.

* ‘**Administer**’ means to personally introduce a medicine to a person’s body or, in some cases, to personally supervise its introduction.
* ‘**Supply**’ means to provide a medicine that is to be used or administered at a later time.
* ‘**Dispense**’ is a commonly used term that is **not interchangeable** with ‘supply’. For example, a pharmacist might dispense a prescription with the intention of supplying the medicine but the supply might not occur until a later time (if at all). To avoid misunderstandings, the terms ‘administer’ and ‘supply’ are used in the legislation.
* ‘**Prescribe**’ is a term that commonly relates to the action of a practitioner who authorises treatment that may be carried out by another person. The 2017 Regulations describe this action in accordance with the three different mechanisms by which the treatment may be authorised; namely **‘issuing a prescription**’, ‘**writing a chart instruction**’ and ‘**authorising administration**’.
* ‘**Drug of dependence**’ means a substance, listed in Schedule 11 of the Act, which are known to be subject to misuse and trafficking. Note: The term is not limited to Schedule 8 and 9 poisons as some Schedule 4 poisons (e.g. benzodiazepines, pseudoephedrine, testosterone and other anabolic steroids) are also classified as drugs of dependence. However, most regulations relate primarily to whether a drug is a Schedule 4 or Schedule 8 poison (rather than a drug of dependence).
* ‘**As soon as practicable**’, where it appears in the legislation, is not to be interpreted as ‘when it is convenient’; for example, a person who is required to forward a document ‘as soon as practicable’ is required to do so not later than would be achieved by forwarding the required document via Australia Post.
* **Emergency**’ means a sudden and urgent occasion for action.

## A resident’s medicine

The following explanation is included to clarify the distinction between a resident’s medicine and ‘imprest’ stock.

* A **resident’s medicine** is generally supplied by a pharmacist (most commonly on prescription from an authorised prescriber) for the treatment of a specific resident and **only** that resident.
	+ If a resident’s medicine has been lawfully supplied, the container will have a label affixed that will identify the specific resident for whom the medicine is intended as well as relevant directions for administration.
* **‘Imprest’ stock** is a term that describes medicines that may be supplied to a residential aged care service, which holds a current Health Services Permit, for administration to unspecified residents.

**Note**: It is not lawful to administer one resident’s medicine to a different resident.

* Accordingly, it is not lawful replace ‘imprest’ stock with some (or all) of the doses of a medicine that is supplied on prescription for a specific resident.

# Mechanisms of lawful supply

# Supply of ‘imprest’ medicines

Residential aged care services may **choose** to apply for a Health Services Permit (HSP) to obtain Schedule 4 and/or Schedule 8 medicines from a pharmacy so that they are readily available for administration, in accordance with the directions of an authorised prescriber, to any resident.

* To apply for an HSP, the health service must complete and submit an online application form and related documents, which detail how ‘imprest’ medicines will be obtained, used and managed, to the Medicines and Poisons Regulation branch.
* Each HSP requires payment of an annual fee and will include conditions that are specific to the type of health service provided.
* Most residential aged care services do not have an HSP so **it is the pharmacist’s responsibility** to ensure that a **current** HSP is held before any Schedule 4 or Schedule 8 poisons are supplied as ‘imprest’ medicines.

# Supply on prescription

An **original** prescription (or authorised repeat) for a specific resident is the most common mechanism by which a pharmacist may lawfully supply residents’ medicines containing Schedule 4 or Schedule 8 poisons.

* The requirements to issue a valid prescription are detailed in regulation 24 whilst the duties of a pharmacist, when supplying on a prescription, are contained in Division 2 of the regulations.
* These requirements are applicable, irrespective of whether the prescription relates to a Pharmaceutical Benefit medicine or a medicine that is not subsidised under the Pharmaceutical Benefits Scheme.

# Supply following emergency directions from a prescriber

A prescriber may issue a verbal instruction or transmit a digital image of an original paper prescription to a pharmacist to supply a Schedule 4 or a Schedule 8 medicine if, in the opinion of the prescriber, an emergency exists (Regulation 25 and Regulation 25A). The prescriber who issues a verbal instruction **must** ensure that the written confirmation (most commonly in the form of a prescription) is sent to the pharmacist within 72 hours of issuing the verbal instruction. A prescriber who transmits a digital image of an original paper prescription **must** ensure that the original paper prescription is sent to the pharmacist within 72 hours of transmitting the digital image.

**Note**:

* The digital image of the original paper prescription must be transmitted directly to the pharmacist or pharmacy of the patient's choice by electronic means. Electronic means may include secure email, fax, or Multimedia Messaging Service (MMS).
* The digital image of the original paper prescription must not be sent to more than one pharmacy or to a person other than a pharmacist.
* The prescriber is responsible for ensuring that the written confirmation is sent to the pharmacist, though may delegate the steps to complete the task to another person. The act of sending the original paper prescription must be completed within 72 hours. Due to potential for postage delays it is not a legal requirement that the original paper prescription is received by the pharmacist within 72 hours.
* An electronic prescription should be used in preference to transmission a digital image of an original paper prescription, where available and suitable for the patient.
* It is the responsibility of the prescriber to ensure that an ‘owed’ prescription is provided to the pharmacist.
	+ Relying on a patient to deliver an ‘owed’ prescription to the pharmacy can be unwise.
* If it is necessary to cancel a dispensing record and recreate it, in order to make a claim under the Pharmaceutical Benefits Scheme when an owed prescription (i.e. following a verbal order from the prescriber) is received, the new record must not be false or misleading. In such a situation, it is recommended that a prominent comment is recorded in the ‘dosage instructions’ field to clarify what occurred (e.g. “SCRIPT RECEIVED REGARDING SUPPLY ON DATE”).

# Supply in accordance with an administration order

Historically, a pharmacist was unlikely to be able to supply a Schedule 4 or Schedule 8 medicine, lawfully, as a resident’s medicine on the basis of an ‘administration order’ on a drug chart because drug charts, which were designed to authorise a nurse to administer; did not contain all necessary components of a prescription; and/or could not be processed in the manner that prescriptions must be processed.

Relatively recently, the Commonwealth developed the ‘National Residential Medication Chart (NRMC)’ for use in the residential aged care sector so that pharmacists could supply and claim the cost of **Schedule 4 medicines** that are PBS/RPBS benefits, without the need for separate prescriptions to be written.

To accommodate the Commonwealth National Health (Pharmaceutical Benefits) Regulations 2017, Victoria’s Drugs Poisons and Controlled Substances Regulations were amended to make it lawful for a pharmacist to supply a resident’s medicines, containing **Schedule 4 poisons**, in accordance with a ‘**chart instruction**’ given on a ‘**residential medication chart’** in accordance with the Commonwealth’s provisions.

**Note:**

* For residential aged care service operators who wish to take advantage of the NRMC, but use a commercial version of the chart, it is important to ensure that any commercial products used are compliant with Commonwealth legislation.
	+ It is the responsibility of aged care service operators to obtain relevant advice on the compliance, or otherwise, of a medication chart before considering introducing it.
	+ Suppliers of medication charts should be asked to provide written confirmation of their products’ compliance with applicable legislation.
	+ Use of a non-compliant chart may prevent pharmacists being able to make PBS claims for medicines supplied directly from the medicine order on the chart.
	+ Similarly, a non-compliant chart cannot replace a prescription as a mechanism by which a pharmacist can lawfully supply prescription medicines to an aged care resident.

## Supply of Schedule 4 medicines on a chart instruction

Pharmacists are authorised to supply **Schedule 4 medicines**, on the basis of a chart instruction given on a residential medication chart but only in accordance the Commonwealth provisions.

* A pharmacist is not authorised to supply a Schedule 4 medicine on the basis of a chart instruction on a residential medication chart that does not comply with the requirements for a National Residential Medication Chart (NRMC) or in a manner that does not comply with the provisions of the Commonwealth regulations.
* However, unlike the Pharmaceutical Benefits Scheme, a pharmacist is authorised to supply a **Schedule 4 medicine**, on the basis of a chart instruction, **irrespective**:
	+ of whether the Schedule 4 medicine is a Pharmaceutical Benefit
	+ of whether the prescriber is authorised to prescribe under the Pharmaceutical Benefits Scheme

## S8 medicines not to be supplied on a chart instruction

As is the case with the Pharmaceutical Benefits Scheme, a pharmacist is not authorised to supply a Schedule 8 medicine on the basis of a chart instruction given on a **paper** residential medication chart.

* A separate prescription or verbal authorisation (in an emergency) is required to supply a Schedule 8 medicine to a resident.

## S8 medicines – supply on an electronic chart instruction

Amendment regulations included a definition for an ‘electronic residential medication chart’, which means ‘a residential medication chart in an electronic form in accordance with the requirements of the Commonwealth Regulations’.

The amending regulations authorised pharmacists to supply Schedule 8 medicines on the basis of an electronic National Residential Medication Chart (eNRMC), **in a Commonwealth trial** at more than 100 specific locations in Victoria.

# Reiterating key points for prescribers

* It is **unlawful** for a pharmacist to supply a Schedule 4 or Schedule 8 medicine on the basis of a fax or emailed copy of a prescription.
* Prescribers should not expect pharmacists to supply a Schedule 4 or Schedule 8 medicine to a resident without an **original** prescription, unless:
	+ verbal authorisation is provided, by the prescriber to the pharmacist (not via an intermediary), in an emergency; in which case the prescriber is required to provide written confirmation (most commonly in the form of a prescription) to the pharmacist, **as soon as practicable** – Note: This does not mean when it is convenient to do so; **or**
	+ a Schedule 4 medicine is supplied in accordance with a chart instruction on a National Residential Medication Chart (or similarly compliant chart); **if the aged care service uses such a chart**
	+ a Schedule 8 medicine is supplied in accordance with a chart instruction on an **electronic** National Residential Medication Chart (eNRMC) as part of the Commonwealth trial, referred to above.
	+ there is a current Public Health Emergency Order, which authorises an alternative mechanism.

# For further information

## Department of Health (DH)

### Medicines and Poisons Regulation

GPO Box 4057, Melbourne 3001

Email: dpcs@health.vic.gov.au

Web: https://www.health.vic.gov.au/public-health/medicines-and-poisons-regulation

**For queries relating to the Act or regulations, please:**

* refer to the ‘Documents to print or download’ that are available on the MPR website (see below); or
* if you are unable to address your query by referring to those documents, please submit your query using the [smart form](https://forms.business.gov.au/smartforms/landing.htm?formCode=mpr-enquiry) (<https://forms.business.gov.au/smartforms/landing.htm?formCode=mpr-enquiry>) or e-mail (to dpcs@health.vic.gov.au) and indicate, in the ‘Subject’ field, that your query is to be directed to:
	+ The Health Practitioner Compliance team – for matters relating to compliance by medical practitioners, dentists and pharmacists.
	+ The Licence and Permit team – **for matters relating to Health Services Permit holders** (e.g. hospitals and residential aged care services.

## Documents to print or download from the MPR website

The [Medicines and poisons webpage](http://www.health.vic.gov.au/dpcs) <http://www.health.vic.gov.au/dpcs> on the Health.vic website in the section for ‘[Documents to print or download](https://www.health.vic.gov.au/drugs-and-poisons/documents-and-forms-to-print-or-download-medicines-and-poisons-regulation)’, contains summaries of legislative requirements that have been prepared in relation to issues that relate to multiple categories of health practitioner as well as to individual categories of health practitioner. These documents, which are intended to assist health practitioners to comply with key legislative requirements, include the following:

* Issues relating to multiple categories of health practitioner, including:
	+ Possession and storage
	+ Supply, administration and recording
	+ Prescribing
	+ Criteria for lawful prescriptions
	+ All reasonable steps and other key terms
	+ Schedule 2 and 3 poisons
* Summaries that are specific to individual categories of health practitioner:
	+ Medical practitioners
	+ Pharmacists
	+ Nurses and midwives
	+ Nurses and midwives with registration endorsement (e.g. nurse practitioners, authorised midwives, etc.)
	+ Dentists (and other dental practitioners)
	+ Optometrists (and orthoptists)
	+ Podiatrists
	+ Veterinary practitioners

## Other possible sources of information

### **Australian Health Practitioner Regulation Agency (Ahpra)**

Web: [www.ahpra.gov.au](http://www.ahpra.gov.au)

**Medicare Australia (Pharmaceutical Benefits Scheme)**

* Web: [www.medicareaustralia.gov.au/provider/](http://www.medicareaustralia.gov.au/provider/)
* General inquiries - 132 290
	+ Authorities - 1800 888 333

#### Australian Commission on Safety and Quality in Health Care

Further information about the National Residential Medication Chart is available from the Australian Commission on Safety and Quality in Health Care.

<https://www.safetyandquality.gov.au/our-work/medication-safety/nrmc/>

#### Nursing and Midwifery Board of Australia

Web: [www.nursingmidwiferyboard.gov.au](http://www.nursingmidwiferyboard.gov.au)

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