

Health (Drugs and Poisons) Amendment Regulation (No. 3) 2020

Human Rights Certificate

Prepared in accordance with Part 3 of the *Human Rights Act 2019*

In accordance with section 41 of the *Human Rights Act 2019*, I, the Honourable Steven Miles, Deputy Premier and Minister for Health and Minister for Ambulance Services provide this human rights certificate with respect to the Health (Drugs and Poisons) Amendment Regulation (No. 3) 2020 made under the *Health Act 1937*.

In my opinion, the Health (Drugs and Poisons) Amendment Regulation (No. 3) 2020, as tabled in the Legislative Assembly, is compatible with the human rights protected by the *Human Rights Act 2019*. I base my opinion on the reasons outlined in this statement.

Overview of the Subordinate Legislation

The *Health (Drugs and Poisons) Amendment Regulation (No. 3) 2020* (Amendment Regulation) amends the *Health (Drugs and Poisons) Regulation 1996* (HDPR) to authorise pharmacists to send their controlled drug data to Queensland Health (Department) via an automated online process. Currently, the HDPR requires dispensers to send information to the Department about the dispensing, administration and supply of controlled drugs, either in paper form, by electronic means or by an approved electronic form.

The approved electronic form requires dispensing pharmacies to submit controlled drug data to the Department weekly, via a web-based file upload system portal. The pharmacist must actively go to the file upload system and submit their data every week, as opposed to the data flowing through to the Department without any additional action required by the dispenser. This data is then validated by departmental staff and uploaded into, and maintained in, the Department's Monitoring of Drugs of Dependence System (MODDS) database.

Each year, over 1,200 Queensland pharmacies send the Department more than 1.5 million dispensed controlled drug prescriptions, which are uploaded electronically to MODDS. A further 90,000 written instructions for supplied controlled drugs are sent to the Department. Written instructions are sent in as paper or scanned images for manual data entry.

MODDS information is relied on by health practitioners to inform their clinical decision-making and to support their compliance with the HDPR. Only authorised departmental staff have direct access to MODDS, which they use to undertake their regulatory functions under the HDPR. For example, they provide controlled drug prescription histories to doctors via the 13 S8INFO (13 78 46) enquiry service, which takes over 2,000 calls a month.

Third parties do not have direct access to MODDS. Authorised departmental staff disclose verbal and/or written information held in MODDS to third parties where appropriate and lawful. For example, when a doctor calls 13 S8INFO seeking a controlled drug prescription

history for a patient, or when information from MODDS is provided in writing to another entity pursuant to a lawful request.

The Amendment Regulation will significantly reduce the burden on pharmacists, as it will provide them with an alternative way to comply with the HDPR, by authorising pharmacists to send their controlled drug data to the Department via a Prescription Exchange Service. This will be an automated online process, requiring no additional actions from the pharmacist beyond what they usually do as part of their dispensing process, instead of having to manually send data weekly or fortnightly.

Human Rights Issues

Human rights relevant to the subordinate legislation (Part 2, Division 2 and 3 *Human Rights Act 2019*)

Section 37 of the Human Rights Act provides that every person has a right to access health services without discrimination.

The Amendment Regulation amends the HDPR to authorise pharmacists to send their controlled drug data to the Department via an automated process.

Disruptions and delays in controlled drug data uploads could create a public health risk, as it means the information held by the Department is incomplete, outdated and/or unreliable. As a result of the Amendment Regulation:

- doctors contacting 13 S8INFO will be given current and accurate information about a person's drug treatment history;
- prescribers will be issued HDPR approvals, such as those approvals to treat drug dependent persons, by departmental staff based on accurate and complete information, decreasing the risk of harm or death to those patients;
- drug-dependent or drug-seeking patients will be easier to identify, decreasing the risk that they are able to obtain controlled drugs that could cause them harm from an overdose, or that are diverted to illicit drug markets;
- access to healthcare for some patients may be improved, as doctors will be more confident in prescribing controlled drugs to particular patients due to more current and reliable prescription history information; and
- the Department's capacity to undertake timely and meaningful surveillance, compliance monitoring and enforcement activities will be increased.

The amendments therefore promote the right to access health services without discrimination.

Consideration of reasonable limitations on human rights (section 13 *Human Rights Act 2019*)

As the Amendment Regulation does not limit human rights, it is not necessary to consider section 13 of the Human Rights Act.

Conclusion

I consider that the Health (Drugs and Poisons) Amendment Regulation (No. 3) 2020 is compatible with the *Human Rights Act 2019* because it raises human rights issues but does not limit human rights.

THE HONOURABLE STEVEN MILES MP
DEPUTY PREMIER
and MINISTER FOR HEALTH
and MINISTER FOR AMBULANCE SERVICES

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