



Queensland

# Health (Drugs and Poisons) Amendment Regulation (No. 3) 2016

## Subordinate Legislation 2016 No. 205

made under the

*Health Act 1937*

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**1 Short title**

This regulation may be cited as the *Health (Drugs and Poisons) Amendment Regulation (No. 3) 2016*.

**2 Regulation amended**

This regulation amends the *Health (Drugs and Poisons) Regulation 1996*.

**3 Amendment of s 45 (Offence to manufacture controlled drugs without licence)**

(1) Section 45(b)—

*omit.*

(2) Section 45(c) and (d)—

*renumber* as section 45(b) and (c).

**4 Replacement of s 49 (Offence to wholesale controlled drugs without licence)**

Section 49—

*omit, insert—*

**49 Offence to wholesale controlled drugs without licence**

A person must not sell a controlled drug by wholesale unless the person holds a controlled drug manufacturer licence or controlled drug wholesaler licence for the drug.

Maximum penalty—80 penalty units.

**5 Amendment of s 78B (Definitions for part)**

(1) Section 78B—

*insert—*

*authorised person*, at a hospital, means a person authorised under this part to administer or supply

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medicinal cannabis to an eligible hospital patient at the hospital.

**chief executive approval** means an approval granted under section 78K.

**dosage condition**, for a person, means a condition, relating to the dosage of medicinal cannabis that may be prescribed for or used by the person, imposed under—

- (a) a medicinal cannabis approval; or
- (b) section 78M; or
- (c) a chief executive approval.

**eligible hospital patient** means a person who—

- (a) is a patient, other than an outpatient, being treated at a hospital; and
- (b) is—
  - (i) a patient being treated by a patient-class prescriber under section 78F; or
  - (ii) an approved patient under section 78G; or
  - (iii) using medicinal cannabis under a chief executive approval.

- (2) Section 78B, definition *medicinal cannabis*, paragraphs (b) and (c)—

*omit, insert—*

- (b) used, or intended by the manufacturer of the product to be used, for human therapeutic purposes; and
- (c) a controlled drug, other than a regulated controlled drug.

## 6 Amendment of s 78C (Purpose of part)

Section 78C(a)—

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*insert—*

- (iii) the possession, supply, issue and administration of medicinal cannabis at hospitals; and
- (iv) approved clinical trials; and

## **7 Amendment of s 78D (Application of part)**

- (1) Section 78D(2)(d), '(3) and (4)'—

*omit.*

- (2) Section 78D(2)(i) and (j)—

*omit.*

- (3) Section 78D(2)—

*insert—*

- (ea) section 59, except to the extent it authorises obtaining, possessing or issuing medicinal cannabis for treatment of an eligible hospital patient;
- (i) sections 66 to 69;
- (n) part 5;
- (o) section 119(4) and (5);
- (p) sections 120 and 122.

- (4) Section 78D(2)(ea) to (i)—

*renumber* as section 78D(2)(f) to (j).

- (5) Section 78D(3)—

*omit, insert—*

- (3) Nothing in part 2 is taken to authorise—

- (a) a person, other than a patient-class prescriber or a single-patient prescriber, to prescribe medicinal cannabis; or
- (b) a person, other than a doctor mentioned in section 78GA, to give an oral or written

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- instruction to administer or supply medicinal cannabis to an eligible hospital patient at a hospital, hospice or medical centre at a prison; or
- (c) a person to supply or administer medicinal cannabis other than in accordance with—
- (i) a prescription written by a patient-class prescriber or a single-patient prescriber; or
  - (ii) an oral or written instruction given by a doctor mentioned in section 78GA; or
  - (iii) a chief executive approval.
- (4) Also, nothing in part 2 is taken to require medicinal cannabis to be obtained on a purchase order complying with part 5.

## **8 Insertion of new ss 78GA–78GC**

After section 78G—

*insert—*

### **78GA Hospital doctors**

- (1) This section applies if—
- (a) a doctor is employed or contracted to practise medicine at a hospital; and
  - (b) an eligible hospital patient is being treated at the hospital.
- (2) To the extent necessary to practise medicine at the hospital, the doctor is authorised to do the following—
- (a) obtain medicinal cannabis when at the hospital for the purpose of treating the patient at the hospital;
  - (b) possess medicinal cannabis when at the hospital for the purpose of treating the patient at the hospital;

- (c) if the doctor is reasonably satisfied the patient needs medicinal cannabis for a therapeutic use as part of the patient's medical treatment at the hospital—
    - (i) supply the medicinal cannabis to the patient at the hospital; or
    - (ii) issue the medicinal cannabis to an authorised person at the hospital who is treating the patient; or
    - (iii) administer the medicinal cannabis to the patient at the hospital;
  - (d) give an authorised person at the hospital an oral or written instruction to administer or supply the medicinal cannabis to the patient at the hospital.
- (3) To remove any doubt, it is declared that—
- (a) a dosage condition for the patient does not apply in relation to an act of the doctor permitted under this section; and
  - (b) subsection (2) no longer applies if the eligible hospital patient stops being treated at the hospital.
- (4) In this section—
- hospital* includes—
- (a) a hospice; and
  - (b) a medical centre at a prison.

### **78GB Enrolled nurses**

- (1) This section applies if—
- (a) an enrolled nurse is employed or contracted to practise nursing at a hospital; and
  - (b) an eligible hospital patient is being treated at the hospital.

- (2) To the extent necessary to practise nursing at the hospital, the enrolled nurse is authorised to do the following—
  - (a) obtain medicinal cannabis when at the hospital for the purpose of treating the patient at the hospital;
  - (b) possess medicinal cannabis when at the hospital for the purpose of treating the patient at the hospital;
  - (c) administer medicinal cannabis to the patient at the hospital—
    - (i) on the written instruction of a doctor employed or contracted to practise medicine at the hospital; and
    - (ii) under the supervision of a doctor employed or contracted to practise medicine at the hospital.
- (3) Subsection (2) does not apply if the registration of the enrolled nurse under the Health Practitioner Regulation National Law is subject to a condition that the enrolled nurse is not qualified to administer controlled drugs.
- (4) To remove any doubt, it is declared that—
  - (a) a dosage condition for the patient does not apply in relation to an act of the enrolled nurse permitted under this section; and
  - (b) subsection (2) no longer applies if the patient stops being treated at the hospital.
- (5) In this section—

*hospital* includes—

  - (a) a hospice; and
  - (b) a medical centre at a prison.

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**78GC Registered nurses**

- (1) This section applies if—
  - (a) a registered nurse is employed or contracted to practise nursing at a hospital; and
  - (b) an eligible hospital patient is being treated at the hospital.
- (2) To the extent necessary to practise nursing at the hospital, the registered nurse is authorised to do the following—
  - (a) obtain medicinal cannabis when at the hospital for the purpose of treating the patient at the hospital;
  - (b) possess medicinal cannabis when at the hospital for the purpose of treating the patient at the hospital;
  - (c) administer medicinal cannabis to the patient at the hospital on the oral or written instruction of a doctor employed or contracted to practise medicine at the hospital.
- (3) Subsection (2) does not apply if the registration of the registered nurse under the Health Practitioner Regulation National Law is subject to a condition that the registered nurse is not qualified to administer controlled drugs.
- (4) To remove any doubt, it is declared that—
  - (a) a dosage condition for the patient does not apply in relation to an act of the registered nurse permitted under this section; and
  - (b) subsection (2) no longer applies if the patient stops being treated at the hospital.
- (5) In this section—

*hospital* includes—

  - (a) a hospice; and

- (b) a medical centre at a prison.

## 9 Amendment of section 78I (Pharmacists)

- (1) Section 78I(1)—

*insert—*

- (c) for a pharmacist practising pharmacy at a hospital—issuing or supplying medicinal cannabis to an authorised person at the hospital.

- (2) Section 78I—

*insert—*

- (2A) If the pharmacist practises pharmacy at a hospital, the pharmacist, while practising pharmacy at the hospital, is authorised to issue or supply medicinal cannabis to an authorised person at the hospital—

- (a) on the oral or written instruction of a doctor employed or contracted to practise medicine at the hospital; and
- (b) for the purpose of treating an eligible hospital patient at the hospital.

- (2B) To remove any doubt, it is declared that—

- (a) a dosage condition for the patient does not apply in relation to an act of a pharmacist permitted under subsection (3); and
- (b) subsections (1)(c) and (3) no longer apply if the patient stops being treated at the hospital.

- (3) Section 78I(3)—

*insert—*

***hospital*** includes—

- (a) a hospice; and
- (b) a medical centre at a prison.

- (4) Section 78I(2A) to (3)—  
*renumber* as section 78I(3) to (5).

**10 Insertion of new s 78IA**

After section 78I—

*insert—*

**78IA Hospital pharmaceutical assistants**

To the extent necessary to perform the person's pharmaceutical impost duties in a hospital, a hospital pharmaceutical assistant, acting under the supervision of a pharmacist, is authorised to—

- (a) possess medicinal cannabis at the hospital;  
or
- (b) issue medicinal cannabis to an authorised person at the hospital—
  - (i) on the oral or written instruction of a doctor employed or contracted to practise medicine at the hospital; and
  - (ii) for the purpose of treating an eligible hospital patient at the hospital.

**11 Amendment of s 78P (Expiry of part)**

- (1) Section 78P(a), 'or'—  
*omit.*
- (2) Section 78P(b), '1 January'—  
*omit, insert—*  
30 June

**12 Amendment of s 270B (Approval for cannabis)**

Section 270B(b)(ii)—  
*omit, insert—*

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- (ii) research or analysis, including, for example, research into the potential benefits of cannabis for human therapeutic use or analysis for scientific or compliance purposes.

**13 Amendment of s 271 (Prohibition on dispensing etc. regulated poisons)**

Section 271(2), 'fluoroacetic acid or strychnine'—

*omit, insert—*

fluoroacetic acid, para-aminopropiophenone or strychnine

**14 Amendment of appendix 7 (Regulated poisons)**

Appendix 7, item 7, 'para-amino propriophenone'—

*omit, insert—*

para-aminopropiophenone

ENDNOTES

- 1 Made by the Governor in Council on 17 November 2016.
- 2 Notified on the Queensland legislation website on 18 November 2016.
- 3 The administering agency is Queensland Health.

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