



New South Wales

Poisons and Therapeutic Goods Amendment (Correctional Centres) Regulation 2021

under the

Poisons and Therapeutic Goods Act 1966

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Poisons and Therapeutic Goods Act 1966*.

BRAD HAZZARD, MP
Minister for Health and Medical Research

Explanatory note

The object of this Regulation is to provide for the supply, administration and storage of restricted substances and drugs of addiction for use by inmates in managed correctional centres, which are managed by corporations under the *Crimes (Administration of Sentences) Act 1999*.

The *Poisons and Therapeutic Goods Regulation 2008* deals with the supply, administration and storage of restricted substances and drugs of addiction for use by inmates in correctional centres that are managed by Corrective Services NSW. The inmates in these correctional centres are patients of the Justice Health and Forensic Mental Health Network, which is a statutory health corporation under the *Health Services Act 1997*.

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1 Name of Regulation

This Regulation is the *Poisons and Therapeutic Goods Amendment (Correctional Centres) Regulation 2021*.

2 Commencement

This Regulation commences on 1 August 2021 and is required to be published on the NSW legislation website.

Schedule 1 Amendment of Poisons and Therapeutic Goods Regulation 2008

[1] Clause 3 Definitions

Insert in alphabetical order in clause 3(1)—

correctional centre has the same meaning as in the *Crimes (Administration of Sentences) Act 1999*.

inmate has the same meaning as in the *Crimes (Administration of Sentences) Act 1999*.

management company, for a managed correctional centre, includes a submanagement company, within the meaning of the *Crimes (Administration of Sentences) Act 1999*, that provides health services to inmates at the correctional centre.

managed correctional centre has the same meaning as in the *Crimes (Administration of Sentences) Act 1999*.

Note. A managed correctional centre is a kind of correctional centre.

nurse in charge, in a managed correctional centre, means a nurse in charge of the medical treatment of inmates at the managed correctional centre.

[2] Part 3, heading

Insert “—the Act, s 17” after “(S4)”.

[3] Clause 31A

Insert after clause 31—

31A Storage in managed correctional centres

- (1) The management company for a managed correctional centre must ensure that restricted substances at the managed correctional centre are stored—
 - (a) in a room or enclosure to which the public does not have access, and
 - (b) apart from food intended for consumption by humans or animals, and
 - (c) in a way that, if the container breaks or leaks, the restricted substance cannot mix with or contaminate any food intended for consumption by humans or animals.
- (2) The management company for a managed correctional centre must ensure that prescribed restricted substances at the managed correctional centre are stored—
 - (a) apart from all other goods and substances, and
 - (b) in a separate room, safe, cupboard or other receptacle that is securely attached to a part of the premises and kept securely locked when not in immediate use.
- (3) The management company for a managed correctional centre must appoint, by written instrument, a pharmacist employed at the managed correctional centre as the person responsible for the storage of restricted substances at the managed correctional centre.
- (4) If there is no pharmacist employed at the managed correctional centre, an authorised practitioner or nurse in charge may be appointed.
- (5) This clause does not apply to a restricted substance at a retail pharmacy located at a managed correctional centre.

- (6) This clause does not prevent prescribed restricted substances from being stored with drugs of addiction.
- (7) In this clause—
authorised practitioner does not include a veterinary practitioner.
Maximum penalty—20 penalty units.

[4] Part 3, Division 4, Subdivision 3, heading

Insert “**and managed correctional centres**” after “**hospitals**”.

[5] Clause 49A

Insert after clause 49—

49A Supply by pharmacists in managed correctional centres

- (1) A pharmacist employed at a managed correctional centre may supply a restricted substance for the purposes of treating an inmate at the managed correctional centre—
 - (a) on the written authorisation of an authorised practitioner, if the authorisation is entered on the inmate’s medication chart, or
 - (b) on the written requisition of an appropriate person.Maximum penalty—20 penalty units.
- (2) This clause does not limit the power of a pharmacist employed in a retail pharmacy located at a managed correctional centre to supply a restricted substance on prescription in accordance with the Act or this Regulation.
- (3) In this clause—
appropriate person means an authorised practitioner, nurse or midwife appointed, by written instrument, by the management company for the managed correctional centre for the purposes of this clause.
authorised practitioner does not include a veterinary practitioner.

[6] Clause 58

Omit the clause. Insert instead—

58 Administration by persons employed at hospitals and managed correctional centres

- (1) A person employed at a hospital or managed correctional centre must not administer a restricted substance to a patient without a direction from an authorised practitioner.
- (2) A direction must be written and given in person.
- (3) However, a direction may be given in an emergency—
 - (a) by email or facsimile, or
 - (b) orally by telephone or in another manner approved by the Secretary.
- (4) An authorised practitioner who gives a direction under subclause (3) must attend to review the patient as soon after giving the direction as the authorised practitioner considers appropriate in the circumstances.
- (5) As soon as practicable and no later than 24 hours after giving a direction under subclause (3)(b), the authorised practitioner must confirm the direction by—
 - (a) signing an entry in the patient’s medical history, or

- (b) email or facsimile.
- (6) If the authorised practitioner does not confirm the direction under subclause (5) within 7 days after the restricted substance is administered, the person who administered the substance must notify the Secretary.
- (7) Subclauses (4)–(6) do not apply to the administration of a restricted substance to a patient who is an inmate in a correctional centre if confirmation of the direction for the administration of the substance is given in accordance with the requirements of a protocol approved by the Secretary.
- (8) In this clause—
authorised practitioner does not include a veterinary practitioner.
patient means—
 - (a) a patient in a hospital, or
 - (b) an inmate in a managed correctional centre.Maximum penalty—15 penalty units.

[7] Part 4, heading

Insert “—the Act, s 24” after “(S8)”.

[8] Clause 76A

Insert after clause 76—

76A Storage in managed correctional centres

- (1) The management company for a managed correctional centre must ensure that drugs of addiction at the managed correctional centre are stored in a separate safe apart from other goods or substances.
- (2) Unless otherwise approved for the time being by the Secretary, the safe must comply with the requirements specified in clause 76(2)(a)–(g).
- (3) The management company for a managed correctional centre must ensure that—
 - (a) the safe is kept securely locked when not in immediate use, and
 - (b) a key or other device that unlocks the safe is—
 - (i) kept on the person of an appropriate person at the managed correctional centre, or
 - (ii) locked in a separate safe that can be unlocked only by an appropriate person, and
 - (c) a code or combination that is required to unlock the safe is not disclosed to a person who is not an appropriate person.
- (4) Despite subclause (1), a drug of addiction that requires refrigeration may be kept in a refrigerator instead of a safe if the following requirements are met—
 - (a) the refrigerator must be in a room, part of a room or an enclosure to which the public does not have access,
 - (b) the refrigerator, or a cupboard or receptacle in which the refrigerator is kept, must be securely attached to a part of the premises,
 - (c) the refrigerator, or the room, cupboard or receptacle in which the refrigerator is kept, must be kept securely locked when not in immediate use,

- (d) a key or other device that unlocks the refrigerator, or the room, cupboard or receptacle in which the refrigerator is kept, must be—
 - (i) kept on the person of an appropriate person at the managed correctional centre, or
 - (ii) locked in a safe that can be unlocked only by an appropriate person,
 - (e) a code or combination that is required to unlock anything under this subclause must not be disclosed to a person who is not an appropriate person,
 - (f) the refrigerator must not be used to store an item that is not a Schedule 2, 3, 4 or 8 substance or a therapeutic good.
- (5) The management company for a managed correctional centre must appoint, by written instrument, a pharmacist employed at the managed correctional centre as the person responsible for the storage of drugs of addiction at the managed correctional centre.
- (6) If there is no pharmacist employed at the managed correctional centre, an authorised practitioner or nurse in charge may be appointed.
- (7) This clause does not apply to drugs of addiction at a retail pharmacy located at a managed correctional centre.
- (8) This clause does not prevent drugs of addiction from being stored with prescribed restricted substances.
- (9) In this clause—
appropriate person means—
 - (a) a person appointed under subclause (5) or (6), or
 - (b) an authorised practitioner, nurse, midwife or pharmacist appointed, by written instrument, by the management company for the managed correctional centre for the purposes of this clause.**authorised practitioner** does not include a veterinary practitioner.
Maximum penalty—20 penalty units.

[9] Clauses 83(2)(b) and 94(2)(b)

Omit “(within the meaning of the *Crimes (Administration of Sentences) Act 1999*)” wherever occurring.

[10] Part 4, Division 4, Subdivision 3, heading

Insert “**and managed correctional centres**” after “**hospitals**”.

[11] Clause 99A

Insert after clause 99—

99A Supply by pharmacists in managed correctional centres

- (1) A pharmacist employed at a managed correctional centre may supply a drug of addiction for the purposes of treating an inmate at the managed correctional centre—
 - (a) on the written authorisation of an authorised practitioner, if the authorisation is entered on the inmate’s medication chart, or
 - (b) on the written requisition of an appropriate person.Maximum penalty—20 penalty units.

(2) This clause does not limit the power of a pharmacist employed in a retail pharmacy located at a managed correctional centre to supply a drug of addiction on prescription in accordance with the Act or this Regulation.

(3) In this clause—

appropriate person means an authorised practitioner, nurse or midwife appointed, by written instrument, by the management company for the managed correctional centre for the purposes of this clause.

authorised practitioner does not include a veterinary practitioner.

[12] Clause 101 Possession and supply of drugs of addiction

Insert “or individual inmates in a managed correctional centre” after “hospital” in clause 101(1)(f).

[13] Clause 101(1)(h)

Insert after clause 101(1)(g)—

(h) a pharmacist at a managed correctional centre, but for the purpose only of supplying the drugs for use by individual inmates in the managed correctional centre.

[14] Clause 101(4), (4A) and (4B)

Insert after clause 101(3)—

(4) For the purposes of the Act, section 4(1), the definition of *Supply by wholesale*, a management company for a managed correctional centre is authorised to be supplied with wholesale quantities of drugs of addiction.

(4A) A management company for a managed correctional centre must appoint, by written instrument, a pharmacist employed at the managed correctional centre to receive the drugs of addiction authorised to be supplied to the management company.

(4B) If there is no pharmacist employed at the managed correctional centre, an authorised practitioner, other than a veterinary practitioner, or nurse in charge may be appointed.

[15] Clause 110 Application of Subdivision

Insert at the end of clause 110(2)(c)—

, or

(d) kept in a managed correctional centre.

[16] Part 4, Division 5, Subdivision 2, heading

Omit “and residential care facilities”.

Insert instead “, residential care facilities and managed correctional centres”.

[17] Clause 115 Application of Subdivision

Insert after clause 115(c)—

(d) drugs of addiction that are kept in a managed correctional centre.

[18] Clause 116

Omit clause 116. Insert instead—

116 Registers to be kept

- (1) The nurse or midwife in charge of a hospital ward must keep a register of the drugs of addiction kept in the ward.
- (2) The responsible person for a residential care facility must keep a register of the drugs of addiction kept in the residential care facility.
- (3) The responsible person for a managed correctional centre must keep a register of drugs of addiction kept in the managed correctional centre.
- (4) A register must be in the form of a book that—
 - (a) contains consecutively numbered pages, and
 - (b) is bound so that the pages cannot be removed or replaced without trace, and
 - (c) contains provision on each page for the inclusion of the particulars required to be entered in the book.
- (5) Separate pages of the register must be used for each drug of addiction and for each form and strength of the drug.
- (6) The Secretary may from time to time approve the keeping of a register in another form.
- (7) A management company for a managed correctional centre must appoint, by written instrument, a pharmacist employed at the managed correctional centre as the responsible person for the purposes of subclause (3).
- (8) If there is no pharmacist employed at the managed correctional centre, an authorised practitioner, other than a veterinary practitioner, or nurse in charge may be appointed.
Maximum penalty—20 penalty units.

[19] Clause 117 Entries in registers

Omit “any ward or residential care facility, the person must enter in the ward register or residential care facility register such of the following details as are relevant to the transaction” from clause 117(1).

Insert instead “a ward, residential care facility or managed correctional centre, the person must enter the following details in the register”.

[20] Clause 117(1)(d)

Omit “or residential care facility”.

Insert instead “, residential care facility or managed correctional centre”.

[21] Clause 117(2A)

Insert after clause 117(2)—

- (2A) The person countersigning for the purposes of subclause (2) in a managed correctional centre must be an authorised practitioner, nurse, midwife or pharmacist appointed, by written instrument, by the management company for the managed correctional centre for the purposes of this clause.

[22] Clause 117(5)

Insert after clause 117(4)—

- (5) In this clause—
authorised practitioner does not include a veterinary practitioner.

[23] Clause 120

Omit the clause. Insert instead—

120 Administration by persons employed at hospitals and managed correctional centres

- (1) A person employed at a hospital or managed correctional centre must not administer a drug of addiction to a patient without a direction from an authorised practitioner.
- (2) A direction must be written and given in person.
- (3) However, a direction may be given in an emergency—
 - (a) by email or facsimile, or
 - (b) orally by telephone or in another manner approved by the Secretary.
- (4) An authorised practitioner who gives a direction under subclause (3) must attend to review the patient as soon after giving the direction as the authorised practitioner considers appropriate in the circumstances.
- (5) As soon as practicable and no later than 24 hours after giving a direction under subclause (3)(b), the authorised practitioner must confirm the direction by—
 - (a) signing an entry in the patient’s medical history, or
 - (b) email or facsimile.
- (6) If the authorised practitioner does not confirm the direction under subclause (5) within 7 days after the drug of addiction is administered, the person who administered the substance must notify the Secretary.
- (7) Subclauses (4)–(6) do not apply to the administration of a drug of addiction to a patient who is an inmate in a correctional centre if confirmation of the direction for the administration of the drug is given in accordance with the requirements of a protocol approved by the Secretary.
- (8) In this clause—

authorised practitioner does not include a veterinary practitioner.

patient means—
 - (a) a patient in a hospital, or
 - (b) an inmate in a managed correctional centre.

Maximum penalty—20 penalty units.

[24] Clause 125 Drugs of addiction not to be destroyed

Omit “clause 126, 127 or 128” from clause 125(2)(d).

Insert instead “clause 126, 126A, 127, 128 or 128A”.

[25] Clause 128A

Insert after clause 128—

128A Destruction of unusable or unwanted drugs of addiction in managed correctional centres

- (1) The management company for a managed correctional centre may arrange for unusable or unwanted drugs of addiction at the managed correctional centre to be destroyed by a responsible person in the presence of another person who is—
 - (a) a pharmacist, or

- (b) a medical practitioner, or
 - (c) a nurse practitioner, or
 - (d) a dentist.
- (2) A responsible person who destroys a drug of addiction under this clause must make a record of the destruction in the managed correctional centre's drug register that includes the following—
- (a) the date of the destruction,
 - (b) the responsible person's name, signature and registration number under the *Health Practitioner Regulation National Law (NSW)*,
 - (c) the name, signature and registration number under the *Health Practitioner Regulation National Law (NSW)* of the person who witnessed the destruction,
 - (d) the quantity of the drug of addiction destroyed.
- (3) A management company for a managed correctional centre must appoint, by written instrument, a pharmacist employed at the managed correctional centre as the responsible person for the purposes of this clause.
- (4) If there is no pharmacist employed at the managed correctional centre, an authorised practitioner or nurse in charge may be appointed.
- (5) This clause does not apply to the destruction of drugs of addiction at a retail pharmacy located at a managed correctional centre.
- (6) In this clause—
authorised practitioner does not include a veterinary practitioner.
responsible person means a person appointed under subclause (3) or (4).
Maximum penalty—20 penalty units.

[26] Clause 129, heading

Insert “—the Act, ss 10 and 11” after “authority”.

[27] Clause 183

Insert after clause 182—

183 Duty of governors of managed correctional centres—the Act, ss 17 and 24

- (1) A governor of a managed correctional centre must ensure the following are complied with in the managed correctional centre—
- (a) the requirements of this Regulation that apply to the managed correctional centre,
 - (b) any standards approved by the Secretary relating to the management of poisons, restricted substances or drugs of addiction in a managed correctional centre.
- (2) In this clause—
governor of a correctional centre has the same meaning as in the *Crimes (Administration of Sentences) Act 1999*.
Maximum penalty—20 penalty units.

[28] Appendix C Persons authorised to possess and use substances

Insert after clause 20—

21 Responsible persons at managed correctional centres

- (1) A responsible person for a managed correctional centre is authorised to possess and, if the responsible person is an authorised practitioner, use a Schedule 2, 3 or 4 substance that is required in connection with the medical treatment of inmates at the managed correctional centre.
- (2) A management company for a managed correctional centre must appoint, by written instrument, a pharmacist employed at the managed correctional centre as the responsible person for the purposes of this clause.
- (3) If there is no pharmacist employed at the managed correctional centre, an authorised practitioner or nurse in charge may be appointed.
- (4) In this clause—
authorised practitioner does not include a veterinary practitioner.
responsible person means a person appointed under subclause (2) or (3).