

# Key legislative requirements for nurses providing acute care

(not including nurse practitioners)

This summary has been prepared by the Drugs and Poisons Regulation Group (DPRG) to assist nurses in understanding their obligations under the legislation. **Note:** For easier reading and comprehension, this summary does not include the many and varied options that are covered by the legislation; it focuses on circumstances that are applicable to the majority of nurses practising in hospitals and acute care facilities. Reference must be made to the Drugs, Poisons and Controlled Substances Act 1981 and Regulations 2006 (at [www.legislation.vic.gov.au](http://www.legislation.vic.gov.au)) for full details.

## Key terms

**Schedule 8 poisons** (labelled Controlled Drug) are drugs with more strict legislative controls, e.g. cocaine, morphine, pethidine, oxycodone, methadone, hydromorphone, flunitrazepam, fentanyl, ketamine.

**Schedule 4 poisons** (labelled Prescription Only Medicine) include other drugs for which prescriptions are required, e.g. cardiovascular drugs, antibiotics, nitrous oxide & many others.

The term “**drugs of dependence**” is used to describe substances listed in Schedule 11 to the Act and includes all S8 poisons plus those S2, S3 or S4 poisons known to be subject to misuse and trafficking, e.g. pseudoephedrine, benzodiazepines, dextropropoxyphene, midazolam.

**Note:** Most regulations relate primarily to whether a drug is in Schedule 4 or Schedule 8 (not Schedule 11) so, to avoid confusion, it is recommended that diazepam and similar substances be referred to as Schedule 4 drugs of dependence – **rather than** as Schedule 11 drugs.

The term “**nurse**” (as defined in the Regulations) means a registered nurse or an enrolled nurse – not including an enrolled nurse with a notation on registration indicating that he/she is not qualified to administer medication.

## Possession of Schedule 4 and Schedule 8 poisons

It is an offence to **possess** Schedule 4 or Schedule 8 poisons unless authorised under the Act or the Regulations. Medical practitioners and pharmacists are authorised under the Act.

**Nurses** are authorised (under regulation 5(2)) to possess Schedule 4 or Schedule 8 poisons that are necessary for administration to patients under their care, in accordance with:

- The instructions and authorisation of a medical practitioner for a specific patient
- The **approval of the Secretary** (of the Department of Health) in specified circumstances, e.g. immunisation nurse; forensic nurse examiner; and midwife - For further information and details, please refer to the DPRG website ([www.health.vic.gov.au/dpu](http://www.health.vic.gov.au/dpu))
- The conditions of a Health Services Permit (HSP) issued by DPRG

A **Health Services Permit** is issued to an establishment (e.g. hospital, day surgery) to authorise it to possess Schedule 4 and Schedule 8 poisons for the provision of health services.

Each permit contains conditions that are specific to the type of health service provided, e.g. the conditions for a hospital vary from those of a bush-nursing centre or an ambulance service.

Each permit (HSP) has a corresponding Poisons Control Plan (PCP), which contains details of the manner in which each permit holder has undertaken to comply with legislative requirements.

Nurses should refer to the actual permit (HSP) and to the Poisons Control Plan (PCP), of an establishment to examine details of the manner in which the permit holder has undertaken to comply with legislative requirements. The Director of Pharmacy and/or the Director of Nursing commonly manage the HSP and PCP; in some cases, the PCP is available for examination on the hospital's intranet.

## Administration of Schedule 4 and Schedule 8 poisons

HSPs also contain conditions that specify who (e.g. nurse, pharmacist, medical practitioner) is authorised to administer Schedule 4 and Schedule 8 poisons in an establishment.

Regulation 47 requires a nurse to refer to authoritative instructions before administering Schedule 4 or Schedule 8 poisons, namely:

- Written instruction of a medical practitioner (the most common option)
- Oral instructions of a medical practitioner if, in the opinion of the medical practitioner, an emergency exists (e.g. telephone orders)
- Written transcription (of emergency oral instructions) by the nurse who received those instructions
- Directions for use on a container supplied by a medical practitioner or pharmacist (e.g., administration of a person's own lawfully supplied medication)
- In accordance with provisions of regulation 5 (e.g. standing orders)

Some hospitals hold HSPs with conditions authorising the hospital to generate **Standing Orders**, for the **emergency** administration of specified drugs in specified circumstances. In such cases, the hospital's PCP will also contain details of the framework that has been established to generate Standing Orders.

## Nurse-initiated medications

Not to be confused with Standing Orders; some establishments have documented protocols, which detail when a nurse may initiate treatment with specified medications **other than Schedule 4 or Schedule 8 poisons**. This is a matter of liability and policy – rather than of drugs and poisons legislation.

## Administration versus supply

In this context, “**administer**” means to personally introduce a medication or personally observe its introduction to a patient's body. Conversely, “**supply**” means to provide a medication for administration at a later time.

**Nurses** are authorised to possess Schedule 4 and Schedule 8 poisons for **administration** purposes but are **not** authorised to **supply** Schedule 2, 3, 4 or 8 poisons unless his/her registration has been endorsed to do so (in a rural or isolated practice area) and only to the extent described or listed within the state jurisdiction, e.g., a health services permit, in Victoria.

A nurse may return or deliver a person's own medications (e.g. discharge medication that is lawfully supplied on prescription for that patient) if it is appropriate to do so. A nurse must **not** supply hospital ward stock to a patient; this may only be done by an authorised person (e.g. pharmacist, nurse practitioner or medical practitioner) in the lawful practice of his/her profession.

## Destruction of Schedule 8 poisons

Regulation 51 now authorises a nurse to act as the witness when a Schedule 8 poison is to be destroyed by a medical practitioner, nurse practitioner, pharmacist or dentist. **Note:** This does **not** mean that two nurses may destroy Schedule 8 poisons.

To clarify the situation relating to an accepted and necessary practice, regulation 51 specifically authorises a nurse to destroy (i.e. discard) the remaining, unused contents of a previously sterile container (e.g. a partially used ampoule) – provided the nurse makes an appropriate record. **Note:** A witness is not mandated although many establishments have a policy that requires a witness when another nurse is available.

This additional summary has been prepared to assist in understanding the manner in which starter packs (and professional sample packs) might be lawfully managed in establishments that do not have a pharmacy department. Please refer to the Drugs, Poisons and Controlled Substances Regulations 2006 (at [www.legislation.vic.gov.au](http://www.legislation.vic.gov.au)) for full details.

## Starter packs

The term “starter pack” generally relates to a Schedule 4 medication that has been pre-packaged by a pharmacist, typically to provide medication that will enable a patient to commence taking a medication prior to obtaining a further supply of the medication on prescription. It might consist of either an original container or a smaller quantity of the medication.

Starter packs are commonly supplied to a permit holder (e.g. hospital, day surgery) by a community pharmacy with the containers labelled in a manner that enables a medical practitioner to insert “patient-specific” information at the time of supply.

A pharmacist is considered to have **supplied** the starter packs to the permit holder when possession, control of or access to the drugs is transferred to the permit holder’s staff. When/if a **payment** might occur is not relevant to the question of when supply is said to have occurred.

### Not to be supplied by nurses

As indicated on the previous page, nurses are not generally authorised to supply Schedule 4 poisons so the decision to supply a starter pack (or professional sample pack) of a Schedule 4 poison must be made by an authorised person (i.e. medical practitioner, nurse practitioner or dentist).

### Supply by a medical practitioner

The authorised person, usually a medical practitioner, is responsible for ensuring that the container is labelled in accordance with the regulations and that a record is made to record details of the supply. This responsibility cannot be delegated.

### Replacing a starter pack

If the medical practitioner provides a prescription, authorising a pharmacist to supply further medication to the patient, the pharmacist must supply the quantity specified on the prescription, must label the **corresponding container** in the manner described in regulation 29 and **must** make a record of the transaction.

**Note:** It is **not** lawful to attach a dispensing label, corresponding to the prescription, to the container that was supplied initially.

Regulation 45 makes it an offence to administer drugs, obtained on prescription, to any person other than the person named on the prescription. Hence, a container of medication, obtained on prescription, must **not** be used to replace a starter pack that was previously supplied.

### For further information

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