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| New emergency instruction regulations to facilitate pharmacist supply of medicines in an emergency |
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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) state who may possess Schedule 4 and 8 medicines; the extent to which possession is lawful; and the legislative requirements for use, storage, prescribing and supply of Schedule 4 and 8 medicines.

From 31 March 2023, new regulations enable a prescriber to transmit a digital image of an original prescription to a pharmacist to enable supply of a Schedule 4 or 8 medicine in an **emergency**. The new regulations implement a defined timeline (72 hours) when the prescriber must send the original paper prescription to the pharmacist after transmitting the digital image or following a verbal instruction to a pharmacist to instruct supply in an emergency.

The purpose of the amendment is to improve safe access to medicines for patients in an emergency where a verbal instruction or electronic prescription may not be suitable for the patient or available to the prescriber. Uses may include telehealth emergency consultations, emergency care for residents in Residential Aged Care Facilities, and in General Practice or by other medical specialists in an emergency where an electronic prescription or verbal instruction is not suitable. The new regulations may also be used in an emergency by other prescriber health practitioner groups.

Transmission of a digital image of an original prescription is not suitable for general telehealth use. This is because the provision is limited to emergency use only. Prescribers offering non-emergency telehealth services are advised to use electronic prescribing software where available and suitable for the patient.

The option for Victorian prescribers to transmit a digital image of an original prescription to a pharmacist to enable supply of a Schedule 4 or 8 medicine in an emergency aligns with existing provisions in New South Wales, Queensland and most other jurisdictions.

# 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.

* **Emergency**’ means a sudden and urgent occasion for action.
* ‘**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.
* ‘**Supply**’ means to provide a medicine that is to be used or administered at a later time.

# Transmitting a digital image of an original paper prescription in an emergency to instruct supply

A prescriber, who is of the opinion that an **emergency** exists, may transmit a digital image of an original paper prescription to a **pharmacist to supply** a Schedule 4 or Schedule 8 medicine subject to the following conditions (regulation 25A):

* The original paper prescription complies with all relevant regulatory requirements.
* The digital image of the original paper prescription is 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 is not sent to more than one pharmacy or to a person other than a pharmacist.
* The prescriber ensures the original paper prescription is sent to the pharmacist or pharmacy within 72 hours of transmitting the digital image of the prescription. 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 written confirmation be received by the pharmacist within 72 hours.

**Note**:

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.

Prescribers should take steps to protect health information when transmitting a digital image of a prescription via email, fax or MMS. The Royal Australian College of General Practitioners publishes information for general practices about using email to communicate health information health organisations. <https://www.racgp.org.au/running-a-practice/technology/business-technology/using-email-in-general-practice>

# Emergency verbal instructions to instruct supply

A prescriber, who is of the opinion that an **emergency** exists, may give a verbal instruction to a **pharmacist to supply** a Schedule 4 or Schedule 8 medicine - provided the prescriber ensures written confirmation (usually in the form of a prescription) of the verbal instruction is sent to the pharmacist within 72 hours of giving the verbal instruction (regulation 25). 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 written confirmation must be completed within 72 hours. Due to potential for postage delays it is not a legal requirement that the written confirmation be received by the pharmacist within 72 hours.

# Matters to be reported to MPR and/or police

Registered health practitioners are required to notify Victoria Police and/or MPR (as indicated below) when:

* a person is suspected to haveobtained **or attempted to obtain**, by means of a false pretence (including the presentation of forged or fraudulently altered prescriptions), a Schedule 4 or Schedule 8 poison from a **pharmacist** – notify police **and** MPR (regulation 69)
* a person is suspected to have obtained, from the practitioner by means of a false pretence, an order or prescription for a Schedule 4 or 8 poison (regulation 26) or for a Schedule 3 poison that is a drug of dependence – notify police **and** MPR (regulation 147)
* a person is suspected to have obtained, from the practitioner by means of a false pretence, a Schedule 4 or Schedule 8 poison (regulation 44) or a Schedule 3 poison that is a drug of dependence – notify police **and** MPR (regulation 147)

# For further information

## Department of Health (DH)

### Medicines and Poisons Regulation

GPO Box 4057

Melbourne 3001

Email: dpcs@health.vic.gov.au

Web: www2.health.vic.gov.au/dpcs

**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](mailto: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, veterinary 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.

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/>.

## 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 sources of information

### Australian Health Practitioner Regulation Agency (Ahpra)

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

### Australian Digital Health Agency (Electronic Prescriptions)

Web: <https://www.digitalhealth.gov.au/initiatives-and-programs/electronic-prescriptions>

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