

1997
THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY

**Drugs of Dependence
(Amendment) Bill 1997**

EXPLANATORY MEMORANDUM

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DRUGS OF DEPENDENCE (AMENDMENT) BILL 1997

OUTLINE

The Drugs of Dependence (Amendment) Bill 1997 ("the Bill") seeks to amend the *Drugs of Dependence Act 1989* ("the Principal Act") in relation to the Principal Act's operation in Class I and Class II health institutions

A Class I institution is a hospital, nursing home or other institution **that has a dispensary** and is used for the accommodation, treatment and care of persons suffering from mental or physical conditions (*such as The Canberra Hospital, John James Memorial Hospital and Calvary Hospital*)

A Class II institution is a nursing home or other institution **that does not have a dispensary** and is used for the accommodation, treatment and care of persons suffering from mental or physical conditions (*such as the Hospice*)

The current provisions in the Principal Act have proved to be inflexible in their operation within Class I and Class II institutions. In addition, health workers have been placed in a difficult legal position when they take possession of prohibited substances or drugs of dependence in the course of their duties.

A multidisciplinary committee comprising members from the ACT Nurses' Board, the Australian Federal Police, the ACT Government Solicitor's Office, the ACT Chief Pharmacist and the Canberra Hospital, recommended the changes to the Principal Act in order to make it more responsive to the needs of a hospital environment, while ensuring that current safeguards are maintained.

The amendments do not reduce the controls in place in relation to the supply, administration or disposal of drugs of dependence or prohibited substances. All delegations of powers must be witnessed.

The Bill proposes amendments to the Principal Act relating to

- the delegation of the powers, in the presence of a witness, to requisition, take supply and dispose of drugs of dependence, of the Chief Pharmacist and nurses in charge of wards,
- the possession of prohibited substances by employees in Class I and Class II institutions where this possession has occurred in the course of their duties,
- the differentiation between the disposal of one or more full ampoules of drugs of dependence and the disposal of a portion of an ampoule following administration to a patient,
- access to drug safes and the recording of withdrawals from the safe, and
- some minor technical amendments to the Principal Act

DETAILS OF THE BILL

Clause 1 Short Title

This is a formal requirement which provides the short title by which the Bill may be cited once passed, being the *Drugs of Dependence (Amendment) Act 1997*

Clause 2 Commencement

This is a formal requirement which states the procedure for commencement of the clauses of the Bill. All clauses of the Bill will take effect from the date on which the Bill is notified in the *Gazette*

Clause 3 Principal Act

This clause defines the term 'Principal Act', as referred to in the Bill, as the *Drugs of Dependence Act 1989*

Clause 4 Requisitions generally

This Clause amends Section 62 of the Principal Act by enabling a person in charge of a ward at a Class 1 institution to delegate her or his powers to requisition drugs of dependence. This delegation may be made orally or in writing in the presence of a witness

Clause 5 Supply on requisition

This clause amends Section 79 of the Principal Act by enabling the supply of a drug of dependence to a delegate of person in charge of a ward at a Class 1 institution. This delegation may be made orally or in writing in the presence of a witness

Clause 6 Entries in ward drugs of dependence registers

Sub clauses 6(a) to 6(j) amend Section 102 of the Principal Act by changing the procedure for the recording of withdrawals from the ward drugs of dependence safe

Sub Clause 6(a), This sub clause will amend sub section 102(1) of the Principal Act by requiring that a record be made of any drugs of dependence that are returned to the dispensary from the ward drug safe, in addition to the current requirements which require the recording of withdrawals for administration to patients

Sub clause 6(b) This sub clause amends paragraph 102(1)(a) of the Principal Act as a consequence of Clause 6(a) of the Bill, noted above, by requiring that the date on which a drug is returned to a dispensary is recorded in the ward drugs of dependence register

This is complementary to the requirement in the Principal Act to record the date on which a drug of dependence is supplied to a patient

- Sub clause 6(c) This subclause amends the Principal Act as a consequence of sub clause 6(e) by ensuring that the subsection 102(c) relates to the supply of drugs of dependence to a Class 2 institution The administration of drugs of dependence is covered by subsection 102(2)
- Sub clause 6(d) This subclause amends subsection 102(2) the Principal Act by changing the tense of the subsection as a consequence of Clause 6(e) below, by replacing the word “administers” with the phrase “is to administer”
- Sub clause 6(e) This sub clause amends subsection 102(2) of the Principal Act by requiring that a record of a withdrawal of a drug of dependence for the purpose of administration to a patient be recorded at the time of withdrawal The Principal Act currently provides for such a withdrawal to be recorded within 24 hours of administration
- Sub clause 6(f) This sub clause amends paragraph 102(2)(a) of the Principal Act by adding the word “anticipated” before the word “date” This is a consequence of Clause 6(e) above It is not possible to record the exact date and time of administration prior to that administration, hence the inclusion of the word “anticipated”
- Sub clause 6(g) This sub clause amends paragraph 102(2)(e) of the Principal Act by changing the grammatical tense of the paragraph, as a consequence of Clause 6(e) above The word “was” is to be replaced by “is to be” in keeping with the amendments requiring withdrawals from drug safes to be recorded at the time of withdrawal, rather than following administration
- Sub clause 6(h) This sub clause amends subsection 102(3) of the Principal Act as a consequence of the amendments detailed in Clause 6(i) below Subsection 102(3) of the Principal Act requires that any person that makes an entry in the drugs of dependence register must sign that entry immediately Sub clause 6(h) will require that entries relating to the supply of drugs of dependence to the ward safe be signed upon the recording of the entry, with a separate process, outlined in Sub clause 6(i), operating for the administration of drugs of dependence
- Sub clause 6(i) This sub clause amends the Principal Act by inserting a new provision as Subsection 120(3A) of the Act This provides that a person who makes an entry in a ward drug safe that relates to the administration of a drug of dependence to a patient, must sign the entry within 24 hours of that administration

This provision also provides for any amendments that may be required to the date and time of administration as recorded in the register, given that the new provision outlined in sub clause 6(f) above requires the inclusion of an anticipated date and time of administration

Sub clause 6(j) This sub clause amends paragraph 102(4)(a) of the Principal Act as a consequence of Clause 6(a) of the Bill, noted above, by requiring that a person who returns a drug of dependence to a dispensary shall countersign the entry in the ward register

Clause 7
Registers - General provisions

This clause amends subsection 106(1) of the Principal Act by adding a reference to the new subsection 102(3A) as detailed in sub clause 6(i) This enables the amendment of an entry in a ward drugs of dependence relating to the date and time of administration

Clause 8
Access to combinations and keys of drug receptacles

This clause amends paragraph 117(1)(f) of the Principal Act by providing that a delegate of a person in charge, for the time being, of a ward at an institution is defined as a "responsible person" for the purposes of the Section This delegation may be made orally or in writing in the presence of a witness This provision enables the delegate of the person in charge of ward at a Class 1 institution to maintain custody of the key or combination of the receptacle, in the ward, in which drugs of dependence are stored This amendment is complementary to the amendments which allow the delegation of powers to requisition and take supply of drugs of dependence

Clause 9
Safekeeping - general

This clause amends subsection 118(b) of the Principal Act by enabling drugs other than drugs of dependence and prohibited substances to be held in the ward drugs of dependence safe

Clause 10
Procedure for disposal

This clause amends Section 120 of the Principal Act by

Sub clause 10(a) providing that, in relation to paragraph 120(4)(b) of the Principal Act, the Chief Pharmacist of a Class 1 institution is able to delegate her or his powers, in the presence of a witness, to verify the disposal of drugs of dependence, where the disposal relates to one or more full doses of a drug of dependence, and

Sub clause 10(b) inserting after subsection 120(5) of the Principal Act a new subsection, styled subsection 120(5A), which provides that the residue left after a drug of dependence has been administered may be disposed of by a medical practitioner, intern, dentist, pharmacist or nurse, in the presence of another such person, rather than by the Chief Pharmacist

Clause 11
Possession and administration of drugs - exemptions

This clause inserts an additional paragraph into the Principal Act after paragraph 170(1)(a), which enables the possession of drugs of dependence by a medical practitioner, pharmacist or nurse employed within a Class 1 or Class 2 institution acting in the course of her or his employment

Clause 12
Prohibited substances - possession, administration, disposal

Sub clause 12(a) This sub clause inserts an additional paragraph into the Principal Act after paragraph 171(4)(c), which enables the possession of prohibited substances by a medical practitioner, pharmacist or nurse employed within a Class 1 or Class 2 institution acting in the course of her or his employment

Sub clause 12(b) This sub clause provides the procedure for the disposal of prohibited substances once taken into possession by an employee referred to in sub clause 12(a) above. The procedure for the disposal of drugs of dependence as outlined in Section 120 of the Principal Act shall apply for the disposal of prohibited substances

Clause 13
Schedule 4

This clause amends Schedule 4 of the Principal Act by amending the ward drugs of dependence register to reflect the amendments which enable the disposal of the residue of an amount of drugs of dependence by medical practitioners, nurses, interns, dentists or pharmacists or an enrolled nurse who has completed a course on the use of drugs of dependence approved for the purposes of the Act by the Minister, where another such person witnesses the disposal