

## EXPLANATORY STATEMENT

*National Health Act 1953*

### ***National Health (Residential Medication Chart) (Repeal) Determination 2015***

#### **PB 20 of 2015**

##### **Authority**

Subsection 93A(2) of the *National Health Act 1953* (the Act) provides that, for the purpose of section 93A of the Act, the Minister may determine conditions under which certain pharmaceutical benefits may be supplied to patients receiving treatment in a residential care service within the meaning of the *Aged Care Act 1997*.

##### **Purpose**

The *National Health (Residential Medication Chart) (Repeal) Determination 2015* (PB 20 of 2015) repeals the *National Health (Residential Medication Chart) Determination 2012*.

The repeal is consequential to a change to the *National Health (Pharmaceutical Benefits) Regulations 1960*, as amended by the *National Health (Pharmaceutical Benefits) Amendment (Medication Chart Prescriptions) Regulation 2015* on 1 April 2015.

The Regulation amendments provide for a medication chart prescription to be used for hospital patients for prescribing, dispensing and claiming on the Pharmaceutical Benefits Scheme (PBS) and Repatriation PBS (RPBS). The hospital medication chart prescription builds on the existing medication chart prescriptions for persons at a residential aged care facility which already allows for PBS/RPBS claiming directly from a chart.

Section 93A of the Act will no longer be relied upon for medication chart prescriptions for persons at a residential aged care facility, with the legal requirements now set out in the Regulations. A savings provision in this instrument aligns with a savings provision in regulation 58 of the Regulations. The savings provisions allow reliance on the old section 93A method for a period of two years. This assists transition by state and territory jurisdictions needing time to make any technical amendments to update poisons law subordinate legislation references to section 93A of the Act.

The Regulations, together with consequential changes including this instrument, implement the PBS Medication Charts for Public and Private Hospitals measure, announced by the Australian Government as part of the 2014-15 Budget. Implementation of the measure reduces the regulatory burden currently placed on PBS prescribers, approved suppliers, and nurses in hospitals. It will remove the need for duplication of PBS/RPBS prescriptions information and improve work flows for health professionals, and health outcomes, through a reduction of transcription errors.

The implementation of the measure is aligned with and supported by the Australian Commission on Safety and Quality in Health Care (ACSQHC). The ACSQHC is

developing national standardised medication charts appropriate for use in hospital settings which also support PBS/RPBS subsidy directly from a PBS prescriber's medication chart prescription without the need for a separate PBS/RPBS prescription.

### **Consultation**

Since the announcement of the PBS Medication Charts for Public and Private Hospitals measure in 2014, the Department of Health has undertaken an extensive consultation process involving all key health stakeholders. These consultations indicate widespread and strong support for the trial of the PBS Hospital Medication Chart and amendments required to the Regulations and associated legislative instruments to support the measure. Consulted stakeholders include States and Territories, Australian Private Hospital Association, Society of Hospital Pharmacists of Australia, Pharmaceutical Society of Australia, Pharmacy Guild of Australia, Australian Medical Association, Cancer Voices Australia, Consumers Health Forum of Australia, National Prescribing Service, the ACSQHC, and the National E-Health Transition Authority.

Similarly, the Department of Human Services has received strong support from a range of stakeholders for the implementation of paperless (electronic) claiming of PBS/RPBS medicines. This includes support for transitional arrangements to ensure stakeholder readiness for the implementation of paperless PBS/RPBS claiming.

This instrument commences on 1 April 2015.

This instrument is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

## **Statement of Compatibility with Human Rights**

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

### ***National Health (Residential Medication Chart) (Repeal) Determination 2015***

This instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

#### **Overview of the Instrument**

The purpose of this legislative instrument, made under subsection 93A(2) of the *National Health Act 1953* (the Act), is to repeal the *National Health (Residential Medication Chart) Determination 2012*. The repeal is consequential to a change to the *National Health (Pharmaceutical Benefits) Regulations 1960* (the Regulations), as amended by the *National Health (Pharmaceutical Benefits) Amendment (Medication Chart Prescriptions) Regulation 2015* on 1 April 2015.

The Regulation amendments provide for hospital medication chart prescriptions to be used for prescribing, dispensing and claiming for supply of pharmaceutical benefits, without the need to produce a separate prescription for Pharmaceutical Benefits Scheme (PBS) and Repatriation PBS purposes.

Section 93A of the Act will no longer be relied upon for medication chart prescriptions for persons at a residential aged care facility, with the legal requirements now set out in the amended Regulations. Savings provisions, in regulation 58 of the Regulations, and this instrument, allow reliance on the old section 93A method for a period of two years.

#### **Human rights implications**

This instrument engages Articles 2 and 12 of the International Covenant on Economic, Social and Cultural Rights by assisting with the progressive realisation by all appropriate means of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

The PBS assists with advancement of these human rights by providing for subsidised access to medicines. The Regulation amendments, and this instrument, are a positive step towards attaining the highest standard of health for all Australians. Increased efficiencies from the use of hospital medication charts for PBS purposes assists to reduce duplication and improve workflow for health professionals. This in turn can assist health professionals to achieve improved health outcomes for patients.

#### **Conclusion**

This instrument is compatible with human rights because it advances the protection of human rights.

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