

## EXPLANATORY STATEMENT

*National Health Act 1953*

### ***National Health (Electronic National Residential Medication Chart Trial) Amendment (Approved Residential Care Services) Special Arrangement 3 of 2020***

#### **Authority**

This instrument is made under section 100(2) of the *National Health Act 1953* (the Act).

Subsection 100(1) of the Act enables the Minister to make special arrangements for the supply of pharmaceutical benefits. Subsection 100(2) of the Act provides that the Minister may vary or revoke a special arrangement made under subsection 100(1).

Subsection 100(3) of the Act provides that Part VII of the Act, and instruments made for the purposes of Part VII of the Act, have effect subject to a special arrangement made under subsection 100(1).

#### **Purpose**

The *National Health (Electronic National Residential Medication Chart Trial) Special Arrangement 2018* (the Principal Instrument) allows three electronic medication management software vendors to trial their electronic medication order chart systems for the purposes of the Pharmaceutical Benefits Scheme (PBS) in approved residential care services. These systems provide a fully electronic version of the paper based residential medication chart currently available in all Australian approved residential care services.

The trial allows approved prescribers (usually general practitioners) within approved trial facilities to prescribe pharmaceutical benefits directly from the electronic National Residential Medication Chart system without developing a second paper-based prescription (often referred to as a medication order). Once rendered and electronically authenticated, these medication orders are sent directly to the approved supplier's dispensing software (or made available by electronic means) for dispensing. Once dispensed, the pharmaceutical item is sent to the approved residential care service for administration to the patient (which is also recorded in the electronic National Residential Medication Chart system), and a claim for payment is sent electronically to the Chief Executive Medicare by the approved supplier.

The purpose of the *National Health (Electronic National Residential Medication Chart Trial) Amendment (Approved Residential Care Services) Special Arrangement 3 of 2020* (the Amending Instrument) is to amend the Schedule to this Special Arrangement to correct administrative errors in the listed addresses and pharmacy approval numbers, and remove a small number of participants who have withdrawn from the trial.

A provision by provision description of the Amending Instrument is contained in Attachment 1.

#### **Consultation**

The Department has consulted with the participating software vendors, and relevant state and territory governments regarding this amendment. The residential aged care facilities and pharmacies identified within the Schedule to this instrument, have voluntarily agreed to participate in the Trial, are aware of the amendments to the legislation that enable their participation and understand the terms and conditions of the Trial.

**Commencement**

The Amending Instrument commences the day after registration.

The Amending Instrument is a legislative instrument for the purposes of the *Legislation Act 2003*.

**Provision by provision description of the National Health (Electronic National Residential Medication Chart Trial) Amendment (approved Residential Care Services) Special Arrangement 3 of 2020**

**Section 1 Name**

This section provides for the Amending Instrument to be referred to as the *National Health (Electronic National Residential Medication Chart Trial) Amendment (approved Residential Care Services) Special Arrangement 3 of 2020*.

**Section 2 Commencement**

This section specifies that the legislation will come into effect from the day after the instrument is registered.

**Section 3 Authority**

This section provides that the Special Arrangement is made under section 100(2) of the *National Health Act 1953*.

**Section 4 Schedules**

This section provides for the amendments being made to the Schedule to the original instrument, correcting incorrect addresses and pharmacy approval numbers, and removing a small number of participants that have withdrawn from the National Health Electronic National Residential Medication Chart trial.

**The Schedule**

The Schedule specifies the name, address and approval number of the residential care services participating in this Special Arrangement; the name, address and approval number of the approved supplier associated with each residential care service participating in this Special Arrangement; and the electronic medication management system software vendor associated with each residential care service.

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

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

### ***National Health (Electronic National Residential Medication Chart Trial) Amendment (Approved Residential Care Services) Special Arrangement 3 of 2020***

This legislative 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 Legislative Instrument**

The purpose of this instrument is to amend the *National Health (Electronic National Residential Medication Chart Trial) Special Arrangement 2018* (the Principal Instrument) to ensure this document contains correct and up to date information for all trial participants.

The Principal Instrument allows three electronic medication management software vendors to trial their electronic medication order chart systems for the purposes of the Pharmaceutical Benefits Scheme (PBS) in twelve approved residential care services in New South Wales and South Australia.

#### **Human rights implications**

This instrument engages article 12 of the International Covenant on Economic Social and Cultural Rights (ICESCR), specifically the right to health.

##### *Right to Health*

The right to health – the right to the enjoyment of the highest attainable standard of physical and mental health – is contained in article 12(1) of the ICESCR. Whilst the UN Committee on Economic Social and Cultural Rights has stated that the right to health is not to be understood as a right to be healthy, it does entail a right to a system of health protection which provides equality of opportunity for people to enjoy the highest attainable level of health.

##### *Analysis*

This instrument will ensure that all details of trial participants is listed correctly within the Schedule.

#### **Conclusion**

This instrument is compatible with human rights as it enables advances in the protection of human rights, in particular the right to health.

**Simon Cleverley**

A/g Assistant Secretary

Digital Health and Services Australia Branch

Provider Benefits Integrity Division

Department of Health