



New South Wales  
Council for Civil Liberties

22 December 2023

Legal and Regulatory Services Branch  
NSW Ministry of Health  
Locked Mail Bag 2030  
St Leonards NSW 1590

Sent by email: [MOH-MPTG-Submissions@health.nsw.gov.au](mailto:MOH-MPTG-Submissions@health.nsw.gov.au)

Dear Project team

**Re: DG23/5729 Exposure Draft Medicines, Poisons and Therapeutic Goods Regulation**

We write to oppose the blanket restriction on the administration of scheduled substances as outlined in the Exposure Draft of the Medicines, Poisons and Therapeutic Goods Regulation.

ACON is NSW's leading health organisation specialising in community health, inclusion and HIV responses for people of diverse sexualities and genders. Established in 1985, ACON works to create opportunities for people in our communities to live their healthiest lives.

Founded in 1963, the NSW Council for Civil Liberties is one of Australia's leading human rights and civil liberties organisations. We monitor and fight against infringement of our rights and liberties and the abuse of power by government, its agencies and others. We also work to influence public debate and secure amendments to laws or changes in policy to strengthen our democratic rights and liberties.

ACON has long advocated that drug use must be considered a health and social issue, rather than a criminal one. Treating drug use as a health issue requires the review of laws and practices that criminalise personal use and possession of drugs. There is extensive evidence of the disproportionate harm that arises from a criminal conviction – and even unpaid fines – for personal possession or use of drugs.<sup>1,2,3</sup>

NSWCCL has, for many years, maintained that drug use should be addressed as a health and social rather than a legal issue. It therefore advocates the transfer of powers relating to drug use from the criminal justice system to the health system. It also supports the policy of harm minimisation, rather than zero tolerance, in treatment of the effects of AOD.<sup>4</sup>

Our organisations are concerned by the proposed blanket restrictions on the administration of scheduled substances that the draft Medicines, Poisons and Therapeutic Goods Regulation proposes. It is our view that blanket restrictions have consequences that disproportionately impact those who

are already marginalised and overpoliced, including LGBTQ+ people, Aboriginal and Torres Strait Islander people, people who use drugs, and people without fixed housing.

These communities are disproportionately affected by even small fines and adverse interactions with police. A criminal justice response stymies health responses to substance abuse and can lead to people becoming institutionalised within the criminal justice system.

There are some contexts in which the sharing or administering of substances to others is a method of harm reduction, including reducing the harm of drug use, and promoting safe sex practices.<sup>5,6</sup> While we appreciate that there are exemptions to the restrictions on administering scheduled substances, our concern is that a blanket offence may mean that some important contexts where administering a substance is seeking to reduce harms and enhance health literacy may be caught under these offences, and may give cause for already marginalised groups to be a further target of criminalisation.

It is our perspective that the existing framework that was in place in the Poisons and Therapeutic Goods Regulation 2008 is sufficient to prevent harms associated with administration of scheduled substances, and the proposed restrictions further criminalise drug use, rather than promote the health and safety of those using substances.

We appreciate that the Project Team's remit is to consider scientific evidence only. However, in New South Wales, efforts are being made to hold a Drug Summit in 2024 and there is growing awareness of the importance of decriminalisation of drug use and the need for a health response to drug use, not least of all the findings of the *Special Commission of Inquiry into Crystal Methamphetamine and other Amphetamine-Type Stimulants*. We urge the Project Team to not cut across any of the work that is otherwise being done in this policy area.

We encourage the Project Team to maintain this level of restriction, rather than the proposed blanket ban.

Please do not hesitate to contact ACON for further discussion, or to seek clarification on (02) 9206 2122 or [nparkhill@acon.org.au](mailto:nparkhill@acon.org.au) or Lydia Shelly at [president@nswccl.org.au](mailto:president@nswccl.org.au).

Kind regards



Nicolas Parkhill  
Chief Executive Officer, ACON



Lydia Shelly  
President, NSWCCCL

## Notes

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<sup>1</sup> Lenton, S., Humeniuk, R., Heale, P., & Christie, P. (2000). Infringement versus conviction: The social impact of a minor cannabis offence in South Australia and Western Australia. *Drug and Alcohol Review*, 19(3), 257-264.

<sup>2</sup> McCarron, E., Clarke, S., & Forell, S. (2008). Fine but not fair: fines and disadvantage. *Justice Issues*, (3), 1-11.

<sup>3</sup> Saunders, B., Lansdell, G., Eriksson, A., & Brown, M. (2014). The impact of the Victorian infringements system on disadvantaged groups: Findings from a qualitative study. *Australian Journal of Social Issues*, 49(1), 45-66.

<sup>4</sup> <https://www.nswccl.org.au/policy>

<sup>5</sup> Robinson, A., & Wermeling, D. P. (2014). Intranasal naloxone administration for treatment of opioid overdose. *American Journal of Health-System Pharmacy*, 71(24), 2129-2135.

<sup>6</sup> Wong, Horas TH, Kumar, S., Chen, T., Sarasola, H., Wark, T., Power, C., Bavinton, B., Dong, K., Haque, M. Mao, L. on behalf of the Sydney CALD Gay Men Action Group (2021). 2021 NSW Gay Asian Men Online Survey: key findings. Sydney: UNSW Centre for Social Research in Health.<http://doi.org/10.26190/y2r6-2p17>