

MINUTE TO THE MINISTER / PARLIAMENTARY SECRETARY INFORMATION ONLY



MS WORTH

cc: SENATOR PATTERSON

CHANGE TO EXCLUDED GOODS ORDER: COLLOIDAL SILVER PRODUCTS

PURPOSE

To advise you of a change to the Therapeutic Goods Order 1 (*Excluded Goods*) (the Order) such that substances used to purify or treat water, which carry therapeutic claims, will no longer be excluded under the *Therapeutic Goods Act 1989*.

BACKGROUND

2. There are no colloidal silver products approved for supply as medicines in Australia. However, colloidal silver products are being widely marketed in Australia as medicines, many with high level therapeutic claims.
3. The TGA has been unable to take action against these products because colloidal silver substances are excluded from the scope of the *Therapeutic Goods Act 1989* (the Act).
4. Colloidal silver substances and the equipment used to make colloidal silver are included in the Therapeutic Goods (Excluded Goods) Order number 1 (the Order) and are thus excluded from the scope of the Act. The basis for the exclusion is that colloidal silver has a history of use as a water purification agent and is still used for this purpose in remote areas and for animal use.
5. Although the TGA has not assessed an application for a colloidal silver product, the Complementary Medicine Evaluation Committee (CMEC) was asked to consider the safe use of colloidal silver as a medicine. The CMEC and the TGA determined that the risk to consumers of silver toxicity outweighs any purported value of the unsubstantiated therapeutic claims. The CMEC recommended that efforts should be made to stop the supply of colloidal silver products as therapeutic goods.
6. The TGA agreed with the CMEC recommendation and proposed to change the Order so that silver products that are marketed with therapeutic claims are not excluded from the Act.
7. The TGA proposal to change the Order was consulted with the complementary medicine industry bodies, water quality industry and relevant government agencies. There is broad support for the TGA proposal, with the proviso that the genuine use of colloidal silver for water purification purposes does not become captured under the Act. A list of the organisations that were consulted is included in Attachment 1.
8. A notice will be published in the *Gazette* either before the end of 2002 or very early in January 2003 that will remove water purification substances, including colloidal silver, for which therapeutic claims are made from being excluded goods (Attachment 2). Given the increased promotion of these products and the associated risk to public health, the change to the Order will come into force on the day of publication of the gazettal notice.

ISSUES

9. Following publication of the change to the Therapeutic Goods Order (Excluded Goods) in the *Gazette*, colloidal silver products making therapeutic claims will become therapeutic goods under the *Therapeutic Goods Act, 1989*.

10. The TGA has not approved any colloidal silver medicines and most of the products currently being marketed will become illegal therapeutic goods. The TGA will take action to stop the supply of these illegal therapeutic goods.

11. While there is support for this action from the peak industry bodies, there is likely to be considerable protest from those who are currently supplying colloidal silver products as medicines. Many of these suppliers are passionate about the claimed benefits of using colloidal silver as a medicine.

12. Those wishing to market colloidal silver products as therapeutic goods may submit an application with the relevant information to the TGA to have their product placed on the Australian Register of Therapeutic Goods (ARTG) and it will be considered in due course, as for any other therapeutic good.

CONSULTATION

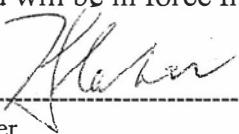
13. The change to the Excluded Goods Order was consulted with the water purification industry, complementary medicine industry, and government agencies that might be affected by the proposed change.

14. There was broad support for the proposed change to make water purification substances, including colloidal silver, for which therapeutic claims are made subject to the *Therapeutic Goods Act, 1989*.

15. The complementary medicine industry organisations strongly supported the amendment and cited equity issues for sponsors who supply approved medicines. The issue of equity in advertising controls was raised in particular. Water industry organisations did not foresee any implications for their industry.

RECOMMENDATION

R1. That you NOTE Therapeutic Goods Order 1 (*Excluded Goods*) will be changed such that substances used to purify or treat water that carry therapeutic claims will no longer be excluded from the *Therapeutic Goods Act 1989*. The change to the Order will be implemented *via* a gazettal notice to this effect, which will be published in the *Commonwealth Government Notices Gazette* before the end of 2002 or very early in January 2003 and will be in force from the date of publication.


Terry Slater
National Manager
Therapeutic Goods Administration
19 December 2002

Action Officer
Mr Pio Cesarin
Director
Chemicals and Non-Prescription Medicines
Branch
(Ph) (02) 6232 8660
(Fax) (02) 6232 8913

OUTCOME: 1: Population Health and Safety

MINISTER'S COMMENTS:

MINISTER'S ACTION

Trish Worth

- NOTED
- PLEASE DISCUSS
- PROVIDE FURTHER UPDATE

ATTACHMENT 1

The TGA formally sought comments on the proposed amendment to the Excluded Goods Order from the following organisations:

- Office of the NHMRC (NHMRC)
- Australian Competition and Consumer Commission (ACCC)
- CRC for Water Quality and Treatment (CRC)
- Association of Therapeutic Goods Consultants (ATGC)
- Complementary Healthcare Council of Australia (CHC)
- Water Services Association of Australia (WSAA)
- Australian Water Association (AWA)
- Australian Self-Medication Industry (ASMI)
- Direct Selling Association of Australia Inc. (DSAA)

COMMONWEALTH OF AUSTRALIA

Therapeutic Goods Act 1989

Therapeutic Goods (Excluded Goods) Order No.1 of 2002

TG1/2002

I, TERENCE SLATER, a delegate of the Secretary of the Department of Health and Ageing for the purposes of section 7 of the *Therapeutic Goods Act 1989* (the Act), and acting under subsection 7(1) of that Act, make the following Order.

Dated *19/12* December 2002



Delegate of the Secretary of the Department of Health and Ageing

Citation

1. This Order may be cited as the Therapeutic Goods (Excluded Goods) Order No 1 of 2002.

Commencement

2. This Order commences on Gazettal.

Amendment

3. Therapeutic Goods (Excluded Goods) Order No.1 of 1998 * ("the 1998 Order") is amended as set out in this Order.
4. Delete paragraph 3(i) and replace with the following new paragraph: "3(i) equipment for use in the purification or treatment of drinking water;"
5. After item 12 in the Table insert:

(i) in column 1 -

"13"

(ii) in column 2 -

"substances for use in the purification or treatment of drinking water"

(iii) in column 3 -

"if no therapeutic claims are made"

* TG1/98 published in Commonwealth of Australia Gazette No. S 79 of 25 February 1998