

[STATE ARMS]

New South Wales

Nurses Amendment (Nurse Practitioners) Bill 1998

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Nurses Act 1991*:

- (a) to allow the Nurses Registration Board to authorise certain registered nurses to practise as nurse practitioners, and
- (b) to allow the Director-General of the Department of Health to approve guidelines relating to the functions of nurse practitioners, and to allow such guidelines to make provision for the possession, use, supply and prescription of certain substances by nurse practitioners, and
- (c) to prevent an unauthorised person from using the title "nurse practitioner" or otherwise holding himself or herself out to be a nurse practitioner.

The Bill also amends the *Poisons and Therapeutic Goods Act 1966* to allow the Director-General of the Department of Health to authorise a nurse practitioner, or class of nurse practitioners, to possess, use, supply or prescribe substances specified in the Poisons List (other than drugs of addiction) in accordance with the guidelines approved by the Director-General.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 is a formal provision giving effect to the amendments to the *Nurses Act 1991* set out in Schedule 1.

Clause 4 is a formal provision giving effect to the amendments to the *Poisons and Therapeutic Goods Act 1966* set out in Schedule 2.

Clause 5 is a formal provision giving effect to the amendments to the Acts specified in Schedule 3.

Schedule 1 Amendments to Nurses Act 1991

The amendments to the *Nurses Act 1991* allow the Nurses Registration Board to authorise any person who is registered as a nurse or entitled to be registered as a nurse to practise as a nurse practitioner (see **Schedule 1 [15]**). Such authorisation is to be given only if the Board is satisfied that the person has sufficient qualifications and experience to practise as a nurse practitioner.

Schedule 1 [15] provides for the making of an application to the Board for authorisation to practise as a nurse practitioner. **Schedule 1 [16] – [17]** provide for the determination of the application by the Board. It will be an offence to make a false or misleading statement for the purpose of obtaining authorisation to practise as a nurse practitioner (**Schedule 1 [26]**). If the application is granted, a certificate of authorisation is to be issued to the nurse practitioner (**Schedule 1 [14]**) and the particulars of the authorisation are to be entered in the Register of Nurses (**Schedule 1 [13]**). Provision is also made for the issue of temporary authorisations (**Schedule 1 [18] – [19]**). If an application for authorisation to practise as a nurse practitioner is refused, the applicant will be able to appeal against the determination (**Schedule 1 [23]**).

Schedule 1 [6], [7] and [9] – [12] confer functions on the Board in relation to nurse practitioners, such as the function of imposing requirements or conditions relating to authorisation to practise as a nurse practitioner. These are similar to the functions of the Board in relation to authorised midwives. **Schedule 1 [8]** allows the Board to recognise different areas of practice as a nurse practitioner.

Schedule 1 [35] allows the Director-General of the Department of Health to approve guidelines relating to the functions of nurse practitioners. The guidelines may, among other things, make provision for the possession, use, supply or prescription by a nurse practitioner of any poison or restricted substance. A poison or restricted substance is a substance specified in the Poisons List under the *Poisons and Therapeutic Goods Act 1966*, but does not include a drug of addiction. The guidelines may specify the types of substances that may be possessed, used, supplied or prescribed by nurse practitioners and the circumstances in which the substances may be so possessed, used, supplied or prescribed. A contravention by a nurse practitioner of the approved guidelines may constitute professional misconduct or unsatisfactory professional conduct. **Schedule 1 [4]** is a consequential amendment.

Schedule 1 [5] makes it an offence for a person who is not an authorised nurse practitioner to claim to be, or hold himself or herself out to be, a nurse practitioner or to use any name, initials, title, addition, symbol or description that indicates the person is a nurse practitioner.

Schedule 1 [20] – [22] relate to general requirements for authorisation to practise as a nurse practitioner. These are the same as the requirements that apply to registration as a nurse generally.

Schedule 1 [24] and [25] provide for the suspension and cancellation of authorisation to practise as a nurse practitioner.

Schedule 1 [27] – [30] provide for evidentiary matters in relation to authorisation to practise as a nurse practitioner.

Schedule 1 [31] – [33] enable regulations to be made with respect to nurse practitioners, including regulations that provide for the regulation and supervision of the practice of nurse practitioners.

Schedule 1 [36] provides for the making of savings and transitional regulations consequent on the proposed Act.

Schedule 1 [1], [2] and [3] are minor consequential amendments.

Schedule 2 Amendments to Poisons and Therapeutic Goods Act 1966

The amendments to the *Poisons and Therapeutic Goods Act 1966* allow the Director-General of the Department of Health to authorise a nurse practitioner, or class of nurse practitioners, to possess, use, supply or prescribe any poison or restricted substance (**Schedule 2 [13]**). A *poison* is a substance specified in Schedule 1, 2, 3, 5, 6 or 7 of the Poisons List. A *restricted substance* is a substance specified in Schedule 4 of the Poisons List. The authorisation may be given only if the Director-General approves guidelines relating to the functions of nurse practitioners (see **Schedule 1 [35]**) and those guidelines make provision for the use, supply or prescription by nurse practitioners of substances specified in the Poisons List. The authorisation is to be given in accordance with the approved guidelines.

A nurse practitioner who is authorised by the Director-General to possess, use, supply or prescribe a substance is exempted from the following offences under the *Poisons and Therapeutic Goods Act 1966*:

- (a) the offence of supplying the substance otherwise than by wholesale under section 10 (**Schedule 2 [4]**),
- (b) the offence of having the substance in his or her possession under section 16 (**Schedule 2 [9]**),
- (c) the offence of hawking of the substance under section 34 (**Schedule 2 [15]**).

In addition, a person who supplies a poison or restricted substance on the prescription of a nurse practitioner, obtains possession of the substance in accordance with the prescription of a nurse practitioner or has possession of a substance for the purpose of delivering it to a nurse practitioner is exempted from the relevant offences under the Act (**Schedule 2 [5], [6], [10] and [11]**).

The holder of a wholesaler's licence or a wholesaler's authority will be able to supply a substance specified in Schedule 1, 2, 3 or 7 of the Poisons List or a restricted substance to a nurse practitioner who is authorised to supply or use, or have possession of, the substance concerned (**Schedule 2 [7]**).

Consequential amendments are made to the Act so that it will be an offence:

- (a) to obtain a substance specified in Schedule 1, 2, 3 or 7 of the Poisons List or a restricted substance from a nurse practitioner by means of a false or misleading representation (**Schedule 2 [8]**), or
- (b) to forge or fraudulently alter a prescription of a nurse practitioner (**Schedule 2 [10]**), or
- (c) to obtain a prescription for a restricted substance from a nurse practitioner by means of a false or misleading representation (**Schedule 2 [10]**).

Schedule 2 [16] provides for the making of savings and transitional regulations consequent on the proposed Act.

Schedule 2 [1], [2], [3], [12] and [14] are consequential amendments.

Schedule 3 Consequential amendment of other Acts

Schedule 3 contains consequential amendments to the following Acts:

Correctional Centres Act 1952

Crimes Act 1900

Drug Misuse and Trafficking Act 1985

Factories, Shops and Industries Act 1962

Liquor Act 1982

Pharmacy Act 1964

The amendments are consequential on the fact that nurse practitioners may be authorised to supply and prescribe substances specified in the Poisons List. They extend provisions relating to the supply and prescription of substances by medical practitioners to the supply and prescription of substances by nurse practitioners.