



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.

Nurses Amendment (Nurse Practitioners) Bill 1998

Explanatory note

Schedule 3 Consequential amendment of other Acts

Schedule 3 contains consequential amendments to the following Acts:

Correctional Centres Act 1952

Crimes Act 1900

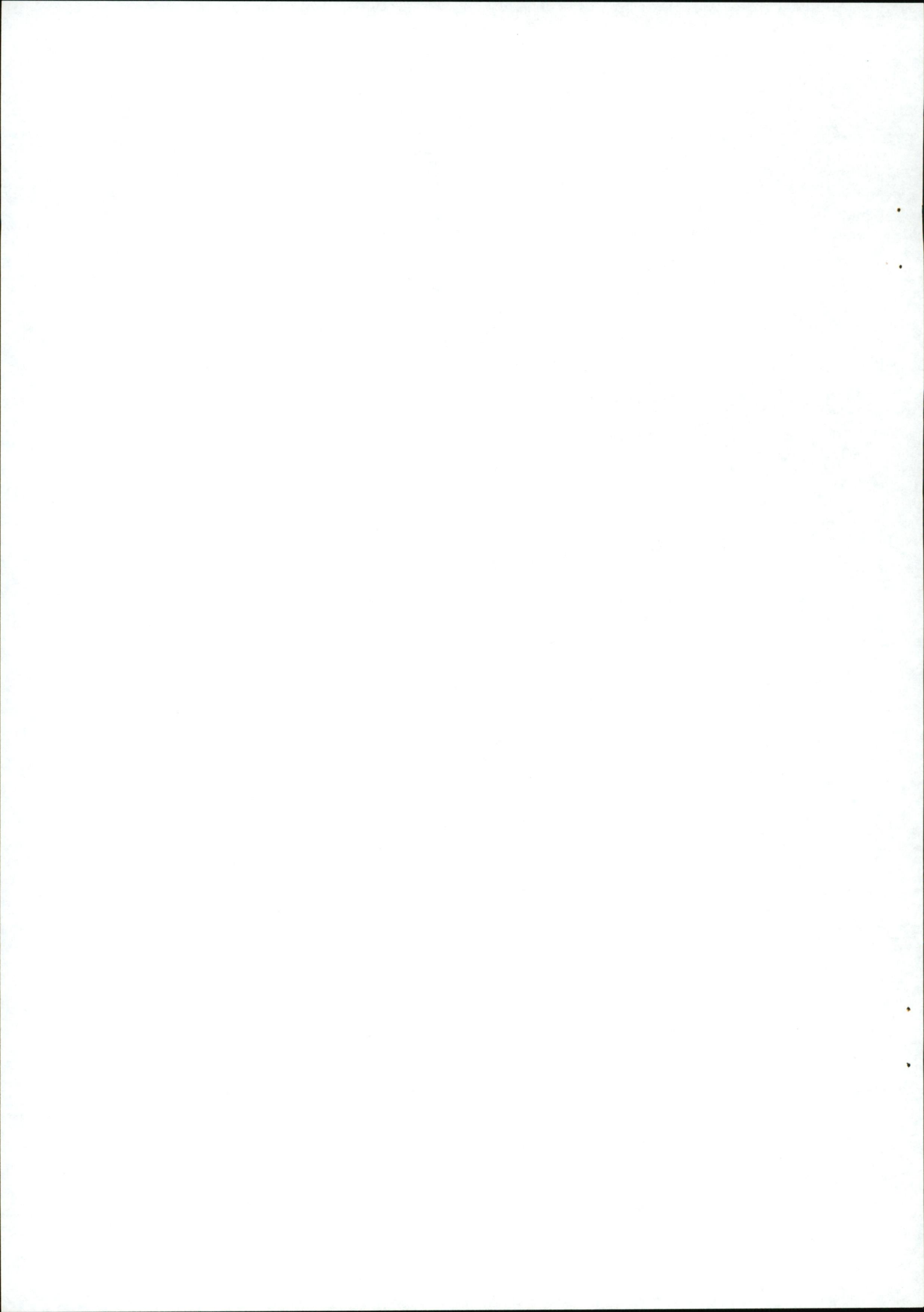
Drug Misuse and Trafficking Act 1985

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.





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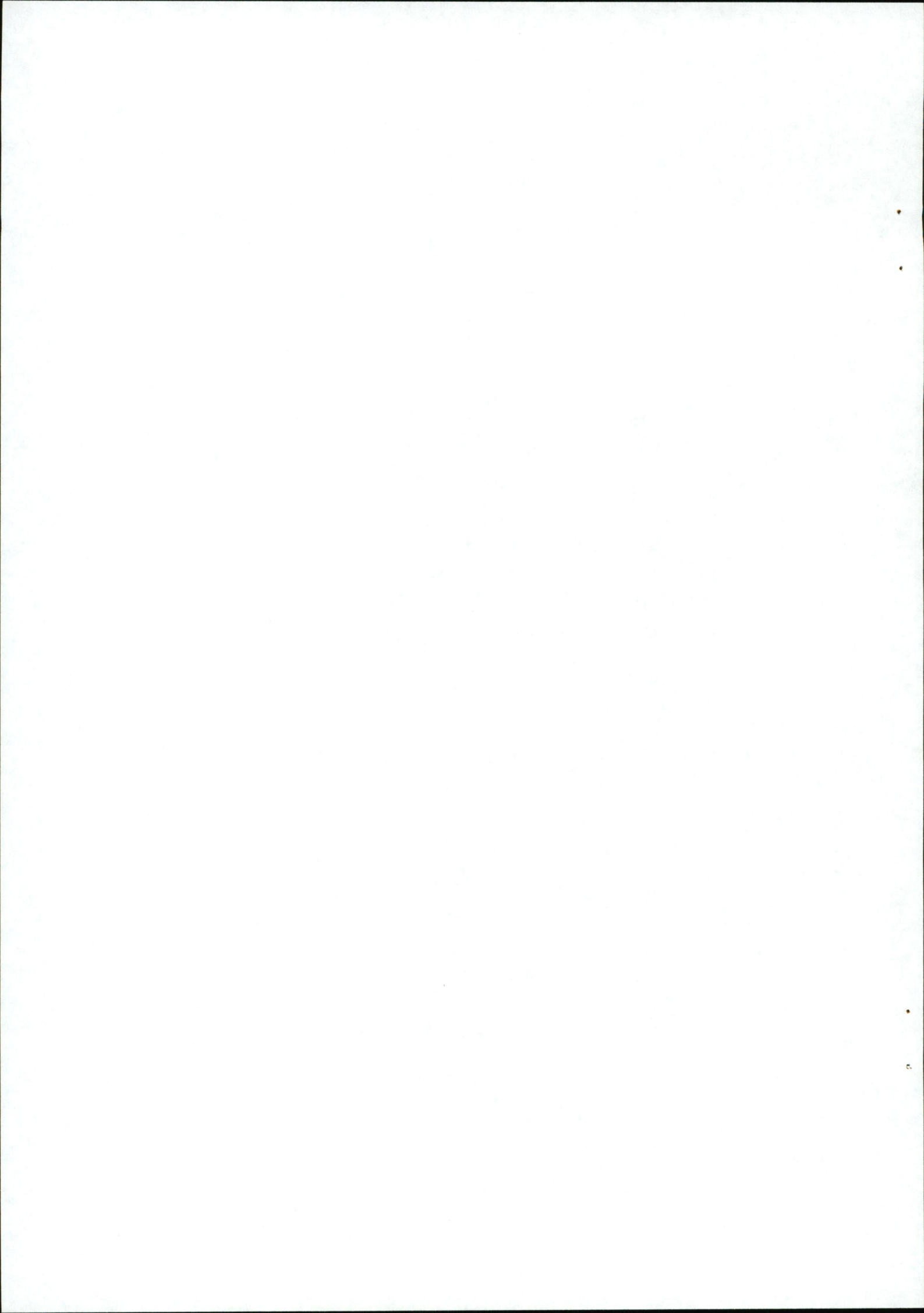
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New South Wales

Nurses Amendment (Nurse Practitioners) Bill 1998

No. , 1998

A Bill for

An Act to amend the *Nurses Act 1991* to provide for the authorisation of nurses to practise as nurse practitioners; to amend the *Poisons and Therapeutic Goods Act 1966* to enable nurse practitioners to be authorised to possess, use, supply and prescribe certain substances; to amend other Acts consequentially; and for other purposes.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Nurses Amendment (Nurse Practitioners) Act 1998*.

2 Commencement

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This Act commences on a day or days to be appointed by proclamation.

3 Amendment of Nurses Act 1991 No 9

The *Nurses Act 1991* is amended as set out in Schedule 1.

4 Amendment of Poisons and Therapeutic Goods Act 1966 No 31

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The *Poisons and Therapeutic Goods Act 1966* is amended as set out in Schedule 2.

5 Consequential amendment of other Acts

The Acts specified in Schedule 3 are amended as set out in that Schedule.

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Schedule 1 Amendment of Nurses Act 1991

(Section 3)

[1] **Section 3 Definitions**

Insert "practise as a nurse practitioner or to" after "authorisation to" in the definition of *accreditation* in section 3 (1).

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[2] **Section 3 (1)**

Insert in alphabetical order:

nurse practitioner means a person authorised by the Board under this Act to practise as a nurse practitioner.

[3] **Section 3A**

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Insert after section 3:

3A Notes

Notes included in this Act do not form part of this Act.

[4] **Section 4 "Professional misconduct" and "unsatisfactory professional conduct"**

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Insert at the end of the section:

Note. In the case of nurse practitioners, a contravention of any guidelines approved by the Director-General relating to the functions of registered nurses as nurse practitioners may constitute professional misconduct or unsatisfactory professional conduct (see section 78A).

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[5] **Section 5A**

Insert after section 5:

5A Unauthorised persons not to hold themselves out as nurse practitioners

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A person must not:

- (a) claim to be or hold himself or herself out as being a nurse practitioner or entitled to practise as a nurse practitioner, or

- (b) take or use any name, initials, word, title, addition, symbol or description which, having regard to the circumstances in which it is taken or used:
- (i) indicates, or
 - (ii) is capable of being understood to indicate, or 5
 - (iii) is likely to lead persons to infer,
- that the person is a nurse practitioner or entitled to practise as a nurse practitioner.
- unless the person is a registered nurse who is authorised by the Board to practise as a nurse practitioner. 10
- Maximum penalty: 50 penalty units or imprisonment for 12 months, or both.
- [6] Section 10 Functions of Board**
- Insert "the authorisation of registered nurses to practise as nurse practitioners," after "registration of nurses," in section 10 (1) (h). 15
- [7] Section 10 (1) (h) (i)**
- Insert "nurse practitioners," after "training of nurses,".
- [8] Section 10 (1) (h1)**
- Insert after section 10 (1) (h): 20
- (h1) to recognise, if the Board considers it appropriate, areas of practice as a nurse practitioner.
- [9] Section 10 (1) (i) and (j) and (2) (c)**
- Insert "authorisation to practise as a nurse practitioner," after "registration as a nurse," wherever occurring. 25

[10] Section 10 (1) (k1)

Insert after section 10 (1) (k):

(k1) to cause the relevant particulars of the qualifications and experience of registered nurses who are authorised by the Board to practise as nurse practitioners to be entered in the Register.

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[11] Section 10 (1) (m)

Insert "for authorisation to practise as a nurse practitioner," after "registration as a nurse,".

[12] Section 10 (1) (n)

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Omit "certificates of authorisation to practise midwifery to registered nurses who are authorised by the Board to practise midwifery".

Insert instead "certificates of authorisation to registered nurses who are authorised by the Board to practise as nurse practitioners or to practise midwifery, or both,".

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[13] Section 16 Register of Nurses

Insert after section 16 (3) (c):

(c1) particulars of any authorisation authorising the nurse to practise as a nurse practitioner and particulars of the qualifications and experience by virtue of which the authorisation was granted,

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[14] Section 17 Issue of certificate of registration

Insert after section 17 (a):

(a1) on entering in the Register in relation to that person the particulars referred to in section 16 (3) (c1), issue to the person a certificate, in a form approved by the Board, that the person is authorised to practise as a nurse practitioner, and

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[15] Section 19A

Insert after section 19:

19A Nurse practitioners

- (1) Any person who is registered or entitled to be registered as a nurse may apply to the Board for authorisation to practise as a nurse practitioner. 5
- (2) The Board may authorise a person to practise as a nurse practitioner only if the Board is satisfied that the person has sufficient qualifications and experience to be entitled to be authorised to practise as a nurse practitioner. 10
- (3) An authorisation to practise as a nurse practitioner has effect for the period specified in the authorisation (not exceeding 3 years), unless sooner cancelled or suspended under this Act.
- (4) An application for authorisation to practise as a nurse practitioner is to be in writing and is to be accompanied by the fee prescribed by the regulations. 15

Note. Section 78A provides that the Director-General may approve guidelines relating to the functions of registered nurses as nurse practitioners. The guidelines may include provision for the possession, use, supply or prescription of certain substances by nurse practitioners. 20

[16] Section 21 Consideration and determination of application

Insert “, 19A” after “19” wherever occurring in section 21 (1), (2) and (4). 25

[17] Section 21 (1)

Insert “to practise as a nurse practitioner or” after “authorise the applicant”.

[18] Section 24 Temporary registration

Insert “as a nurse practitioner or to practise” after “practise” in section 24 (2) (b). 30

[19] Section 24 (3)

Omit "sections 6 and 7 to be a registered nurse who is authorised under section 21 to practise midwifery".

Insert instead "sections 5A, 6 and 7 to be a registered nurse authorised to practise as a nurse practitioner, or to practise midwifery, as the case requires".

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[20] Section 30 Effect of discontinuation or other change in registered courses

Insert "authorisation to practise as a nurse practitioner," after "registration".

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[21] Section 31 Adequacy of language

Insert "authorised to practise as a nurse practitioner," after "registered".

[22] Section 31

Omit "or, as the case requires,".

Insert instead "or as a nurse practitioner or".

15

[23] Section 32 Appeals

Insert "19A," after "19," in section 32 (1).

[24] Section 34 Cancellation of registration

Insert "authorised to practise as a nurse practitioner or" after "who is" in section 34 (2).

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[25] Section 36 Effect of cancellation or, suspension in registration

Insert "to practise as a nurse practitioner or" after "by that person" wherever occurring.

[26] Section 41 False or misleading entries and statements

Insert "authorisation to practise as a nurse practitioner," after "registration as a nurse," in section 41 (b).

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- [27] Section 73 Document under hand of Registrar to be prima facie evidence**
- Insert after section 73 (a) (i):
- (ia) was entered in the Register as being a person authorised to practise as a nurse practitioner. 5
- [28] Section 73 (b) (ia)**
- Insert after section 73 (b) (i):
- (ia) was not authorised to practise as a nurse practitioner. 10
- [29] Section 73 (c) (ia)**
- Insert after section 73 (c) (i):
- (ia) the authorisation of a particular person to practise as a nurse practitioner.
- [30] Section 73 (d) (ia)** 15
- Insert after section 73 (d) (i):
- (ia) the authorisation of a particular person to practise as a nurse practitioner was suspended for a specified period,
- [31] Section 78 Regulations** 20
- Insert "authorisation to practise as a nurse practitioner," after "a nurse," wherever occurring in section 78 (2) (d) and (f).
- [32] Section 78 (2) (g)**
- Insert "authorisation to practise as nurse practitioners," after "as nurses,". 25
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[33] Section 78 (2) (i1)

Insert after section 78 (2) (i):

- (i1) the regulation and supervision of the practice of nurse practitioners.

[34] Section 78 (2) (k)

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Insert "to practise as a nurse practitioner or" after "Board".

[35] Section 78A

Insert after section 78:

78A Guidelines relating to functions of nurse practitioners

- (1) The Director-General may from time to time approve guidelines relating to the functions of nurse practitioners. 10
- (2) The guidelines may make provision for the possession, use, supply or prescription by a nurse practitioner of any poison or restricted substance, including by specifying:
 - (a) the poisons or restricted substances (if any) that may be possessed, used, supplied or prescribed by a nurse practitioner, and 15
 - (b) the circumstances (if any) in which a poison or restricted substance may be so possessed, used, supplied or prescribed. 20
- (3) The guidelines may include such other matters relating to the functions of nurse practitioners as the Director-General considers appropriate.
- (4) The guidelines may apply differently to different nurse practitioners according to the factors specified in the guidelines. 25
- (5) A contravention by a nurse practitioner of the approved guidelines does not give rise to an offence but may constitute professional misconduct or unsatisfactory professional conduct. 30

(6) In this section:

poison has the same meaning as in the *Poisons and Therapeutic Goods Act 1966*.

restricted substance has the same meaning as in the *Poisons and Therapeutic Goods Act 1966*.

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Note. This provision allows the Director-General to approve guidelines for the possession, use, supply and prescription by nurse practitioners of any substance specified in the Poisons List (as proclaimed under the *Poisons and Therapeutic Goods Act 1966*), other than a drug of addiction. Under section 17A of that Act, the Director-General may authorise a nurse practitioner or class of nurse practitioners to possess, use, supply or prescribe any such substance in accordance with the approved guidelines.

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[36] Schedule 3 Savings and transitional provisions

Insert at the end of clause 2 (1):

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Nurses Amendment (Nurse Practitioners) Act 1998

Schedule 2 Amendment of Poisons and Therapeutic Goods Act 1966

(Section 4)

[1] Section 4 Definitions

Insert in alphabetical order in section 4 (1):

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nurse practitioner means a person authorised under the *Nurses Act 1991* to practise as a nurse practitioner.

[2] Section 8 Poisons List

Insert "nurse practitioners authorised under section 17A," after "medical practitioners," in the matter relating to Schedule One in section 8 (2).

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[3] Section 8 (2)

Insert "nurse practitioner authorised to prescribe the substance under section 17A," after "medical practitioner," in the matter relating to Schedule Four.

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[4] Section 10 Prohibition on supply of certain substances otherwise than by wholesale

Insert after section 10 (2) (a) and (4) (a):

(a1) by a nurse practitioner, who is authorised under section 17A to supply the substance, in the lawful practice of his or her profession as such, or

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[5] Section 10 (4) (b)

Insert "nurse practitioner," after "medical practitioner,".

[6] Section 10 (4) (c) and (c1)

Insert ", nurse practitioner" after "medical practitioner" wherever occurring.

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- [7] **Section 11 Restriction on wholesale supply of certain substances**
- Insert after section 11 (2) (a):
- (a1) a nurse practitioner authorised under section 17A to supply or use, or have possession of, the substance concerned, or 5
- [8] **Section 12 Obtaining substances by false representation**
- Insert after section 12 (2) (a)
- (a1) a nurse practitioner authorised under section 17A to supply or use, or have possession of, the substance concerned, or 10
- [9] **Section 16 Offences relating to prescribed restricted substances**
- Insert after section 16 (1) (a):
- (a1) the person is a nurse practitioner who is authorised under section 17A to possess the substance and the person obtains possession or attempts to obtain possession of it in the lawful practice of his or her profession, 15
- [10] **Section 16 (1) (b), (2), (3) (a) (i) and (5)** 20
- Insert "nurse practitioner," after "medical practitioner," wherever occurring.
- [11] **Section 16 (1) (d1)**
- Insert ", nurse practitioner" after "medical practitioner".
- [12] **Section 17 Regulations under Part 3** 25
- Insert ", nurse practitioner" after "medical practitioner" in section 17 (1) (j1).

[13] Section 17A

Insert after section 17:

17A Director-General may authorise nurse practitioners to possess, use, prescribe or supply substances

- (1) The Director-General may, by means of a written authorisation, authorise a nurse practitioner, or class of nurse practitioners, to possess, use, supply or prescribe any poison or restricted substance for the purposes of the practice of a nurse practitioner's profession. 5
- (2) Such an authority is to be given only if the Director-General approves guidelines, under section 78A of the *Nurses Act 1991*, that provide for the possession, use, supply or prescription of poisons or restricted substances by nurse practitioners and is to be given in accordance with those guidelines. 10
15
- (3) The Director-General may amend or revoke any authorisation given under this section.

[14] Section 18A Evidentiary provisions

Insert "nurse practitioner," after "medical practitioner," in section 18A (1) (b). 20

[15] Section 34 Hawking of poisons and therapeutic goods

Insert "nurse practitioner authorised under section 17A," after "medical practitioner," in the definition of *public place* in section 34 (4).

[16] Schedule 3 Savings and transitional provisions

Insert at the end of clause 1 (1):

Nurses Amendment (Nurse Practitioners) Act 1998

Schedule 3 Consequential amendment of other Acts

(Section 5)

3.1 Correctional Centres Act 1952 No 9

[1] **Section 25 Governor of correctional centre may impose penalties for certain correctional centre offences** 5

Insert “, nurse practitioner” after “medical practitioner” in section 25 (4B) (a).

[2] **Section 25 (7)**

Insert after the definition of *drug*: 10

nurse practitioner means a person authorised under the *Nurses Act 1991* to practise as a nurse practitioner.

3.2 Crimes Act 1900 No 40

Section 428A Definitions

Insert “, a person authorised under the *Nurses Act 1991* to practise as a nurse practitioner,” after “medical practitioner” in paragraph (c) of the definition of *self-induced intoxication*. 15

3.3 Drug Misuse and Trafficking Act 1985 No 226

[1] **Section 3 Definitions**

Insert in alphabetical order in section 3 (1): 20

nurse practitioner means a person authorised under the *Nurses Act 1991* to practise as a nurse practitioner.

-
- [2] **Sections 15 and 16 (a) (i)**
Insert “. nurse practitioner” after “medical practitioner” wherever occurring.
- [3] **Section 17 Obtaining prohibited drug by false representation**
Insert “nurse practitioner.” after “medical practitioner.”. 5
- [4] **Section 18 Obtaining prohibited drugs from medical practitioners or nurse practitioners**
Omit “a medical practitioner”.
Insert instead “an authorised person”.
- [5] **Section 18** 10
Omit “the medical practitioner” wherever occurring.
Insert instead “the authorised person”.
- [6] **Section 18**
Omit “medical practitioners”. Insert instead “authorised persons”.
- [7] **Section 18 (2)** 15
Insert at the end of section 18:
(2) In this section:
authorised person means a medical practitioner or nurse practitioner.
- [8] **Section 29 Traffickable quantity—possession taken to be for supply** 20
Insert “nurse practitioner,” after “medical practitioner,” in section 29 (b).

- 3.4 Factories, Shops and Industries Act 1962 No 43**
- Section 89A Sale of medicinal or surgical goods**
- Insert “, the prescription of a nurse practitioner” after “medical practitioner” in section 89A (a).
- 3.5 Liquor Act 1982 No 147** 5
- Section 6 Application of Act**
- Insert “, a registered nurse authorised under the *Nurses Act 1991* to practise as a nurse practitioner” after “1938” in section 6 (d).
- 3.6 Pharmacy Act 1964 No 48**
- [1] Section 3 Definitions** 10
- Insert in alphabetical order in section 3 (1):
- nurse practitioner* means a person authorised under the *Nurses Act 1991* to practise as a nurse practitioner.
- [2] Section 3A** 15
- Insert after section 3:
- 3A Notes**
- Notes included in this Act do not form part of the Act.
- [3] Section 27 Pharmacist to be in charge of every pharmacy and dispensary** 20
- Insert “or nurse practitioner” after “medical practitioner” in section 27 (1).
- [4] Section 28 Medicines to be dispensed by pharmacists**
- Insert “or nurse practitioner” after “medical practitioner” in section 28 (1).

[5] Section 28 (2)

Omit "a medical practitioner from dispensing medicine in the ordinary course of medical practice".

Insert instead "an authorised person from dispensing medicine in the ordinary course of his or her profession".

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[6] Section 28 (3) and note

Insert after section 28 (2):

(3) In this section:

authorised person means a medical practitioner, or a nurse practitioner who is authorised to dispense the medicine concerned under section 17A of the *Poisons and Therapeutic Goods Act 1966*.

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Note. Under the *Poisons and Therapeutic Goods Act 1966* the Director-General of the Department of Health may authorise a nurse practitioner to possess, use, supply or prescribe certain substances specified in the Poisons List.

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[7] Section 38 Regulations

Insert "or nurse practitioner" after "medical practitioner" in section 38 (g) and (h) wherever occurring.