



New South Wales

# Nurses Amendment (Nurse Practitioners) Act 1998 No 102

## Contents

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	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of Nurses Act 1991 No 9	2
4 Amendment of Poisons and Therapeutic Goods Act 1966 No 31	2
5 Consequential amendment of other Acts	2

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## Schedules

1 Amendment of Nurses Act 1991	3
2 Amendment of Poisons and Therapeutic Goods Act 1966	11
3 Consequential amendment of other Acts	14

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New South Wales

## **Nurses Amendment (Nurse Practitioners) Act 1998 No 102**

Act No 102, 1998

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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. [Assented to 2 November 1998]

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

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

**2 Commencement**

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**

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).

### [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

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"

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).

### [5] Section 5A

Insert after section 5:

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

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
  - (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.

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).

**[7] Section 10 (1) (h) (i)**

Insert "nurse practitioners." after "training of nurses,".

**[8] Section 10 (1) (h1)**

Insert after section 10 (1) (h):

- (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.

**[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.

**[11] Section 10 (1) (m)**

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

**[12] Section 10 (1) (n)**

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,".

**[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.

**[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

**[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.
- (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.
- (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.

**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.

**[16] Section 21 Consideration and determination of application**

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

**[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).

**[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".

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

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

**[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".

**[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).

**[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).



**[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,

**[28] Section 73 (b) (ia)**

Insert after section 73 (b) (i):

- (ia) was not authorised to practise as a nurse practitioner,

**[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)**

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**

Insert "authorisation to practise as a nurse practitioner." after "a nurse." wherever occurring in section 78 (2) (d) and (9).

**[32] Section 78 (2) (g)**

Insert "authorisation to practise as nurse practitioners," after "as nurses.".

**[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)**

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.
- (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
  - (b) the circumstances (if any) in which a poison or restricted substance may be so possessed, used, supplied or prescribed.
- (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.
- (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.

(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*.

**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.

**[36] Schedule 3 Savings and transitional provisions**

Insert at the end of clause 2 (1):

*Nurses Amendment (Nurse Practitioners) Act 1998*

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## **Schedule 2 Amendment of Poisons and Therapeutic Goods Act 1966**

(Section 4)

### **[1] Section 4 Definitions**

Insert in alphabetical order in section 4 (1):

*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).

### **[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.

### **[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

### **[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.

**[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

**[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

**[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,

**[10] Section 16 (1) (b), (2), (3) (a) (i) and (5)**

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**

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.
- (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.
- (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).

**[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 33 (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**

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

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

Insert after the definition of *drug*:

*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*.

### **3.3 Drug Misuse and Trafficking Act 1985 No 226**

#### **[1] Section 3 Definitions**

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] 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,”.

**[4] Section 18 Obtaining prohibited drugs from medical practitioners or nurse practitioners**

Omit “a medical practitioner”.  
Insert instead “an authorised person”.

**[5] Section 18**

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)**

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**

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**

**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**

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**

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**

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”.

**[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*.

**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.

**[7] Section 38 Regulations**

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

[Minister’s second reading speech made in—  
Legislative Assembly on 24 September 1998  
Legislative Council on 21 October 1998]