



New South Wales

Nurses and Midwives Regulation 2008

under the

Nurses and Midwives Act 1991

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Nurses and Midwives Act 1991*.

REBA MEAGHER, M.P.,
Minister for Health

Explanatory note

The object of this Regulation is to remake, with minor amendments, the provisions of the *Nurses and Midwives Regulation 2003* which is repealed on 1 September 2008 by section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation makes provision with respect to the following:

- (a) the registration of nurses and midwives,
- (b) Professional Standards Committees and the Nurses and Midwives Tribunal including payment of members and appeals,
- (c) the letters that may be put after a nurse or midwife's name,
- (d) the badges that may be worn by a nurse or midwife,
- (e) the conduct of elections for elected members of the Nurses and Midwives Board,
- (f) the recognition of institutions offering courses for the training of nurses and midwives,
- (g) the forms to be used for certificates of temporary registration and certificates of temporary enrolment,
- (h) the procedures for notifying that a nurse or midwife has become a mentally incapacitated person,
- (i) the offences that, if committed by a nurse or midwife, are not required to be notified to the Nurses and Midwives Board,
- (j) the fees payable under the Act,
- (k) the infection control standards that nurses and midwives must comply with,
- (l) savings and formal matters.

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Explanatory note

This Regulation is made under the *Nurses and Midwives Act 1991*, including sections 5 (2), 9 (2), 16 (5), 18 (1), 19 (1), 19A (4), 20 (4), 22 (3), 23 (1), 24 (1), 25 (c), 26 (7), 27 (1), 28, 28A (1) (d), 28B (1), 33 (1) and (4), 35, 37, 42A (3), 42B (2), 42C (2), 51 (5), 57 (1), 58 (2), 59 (8), 60 (5), 67 (1) and (5) and 78 (the general regulation-making power).

This Regulation comprises or relates to matters set out in Schedule 3 to the *Subordinate Legislation Act 1989*—namely matters of a machinery nature and matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

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Clause 1 Nurses and Midwives Regulation 2008

Part 1 Preliminary

Nurses and Midwives Regulation 2008

under the

Nurses and Midwives Act 1991

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Nurses and Midwives Regulation 2008*.

2 Commencement

This Regulation commences on 1 September 2008.

Note. This Regulation replaces the *Nurses and Midwives Regulation 2003* which is repealed on 1 September 2008 under section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definitions

- (1) In this Regulation:
the Act means the *Nurses and Midwives Act 1991*.
- (2) Notes included in this Regulation do not form part of this Regulation.

Part 2 Registration

4 Functions not requiring registration

For the purposes of section 25 of the Act, the following functions are prescribed:

- (a) functions exercised to meet the needs of organ transplant patients and patients donating organs,
- (b) functions exercised as a member of a retrieval team that enters New South Wales to pick up a patient,
- (c) functions exercised while a nurse or midwife is on escort duty accompanying a patient on a journey that begins or ends outside New South Wales.

5 Enrolment in List "A"

- (1) For the purposes of section 27 (1) (a) (ii) of the Act:
 - (a) the prescribed tuition is the training in nursing given by the hospital or institution that the person attended, and
 - (b) the prescribed examinations are those conducted for the purposes of that subparagraph by:
 - (i) the TAFE Commission within the meaning of the *Technical and Further Education Commission Act 1990*, or
 - (ii) any accredited providers of vocational training or higher education that are approved by the Board.
- (2) For the purposes of this clause:
accredited means accredited by a government department or public authority of the Commonwealth, or a State or Territory, with responsibility for vocational training or higher education.

6 Replacement certificates

- (1) The Registrar may, on application by a nurse or midwife and on payment of the relevant fee set out in Schedule 3, issue a replacement certificate if satisfied that a certificate issued to the nurse or midwife under the Act has been lost or destroyed or the information that it certifies is no longer correct.
- (2) The Registrar may require an application under this clause for a replacement for a lost or destroyed certificate to be verified by a statutory declaration as to the circumstances in which the certificate was lost or destroyed.

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Clause 7 Nurses and Midwives Regulation 2008

Part 2 Registration

7 Alterations of Register or Roll

The Registrar may require such evidence as the Registrar thinks necessary before altering an entry in a Register or Roll.

Part 3 Professional Standards Committees

8 Payment of members of Committee

For the purposes of section 51 (5) of the Act, a member of a Committee is entitled to be paid such remuneration as the Minister may from time to time determine.

9 Appeals against decisions of Committee

For the purposes of section 57 (1) of the Act, the prescribed time within which an appeal may be made to the Tribunal against any finding or exercise of power referred to in that subsection is the time ending 21 days after:

- (a) notice of the reasons for the finding, or
- (b) notice of the reasons for the exercise of power, or
- (c) a statement under section 56 (2) of the Act, or
- (d) a notice under section 56 (5) (b) of the Act, whichever is the later, is given to the appellant.

10 Appeal with respect to a point of law

- (1) An appeal referred to in section 58 (2) of the Act is to be made:
 - (a) by causing a notice of appeal, specifying the grounds on which the appeal is made, to be given to the Chairperson (or, if a Deputy Chairperson is nominated under that section in that regard, to that Deputy Chairperson), and
 - (b) by causing a copy of the notice of appeal to be given to each other party to the proceedings from which the appeal has arisen.
- (2) For the purposes of section 58 (2) of the Act, the prescribed time within which an appeal referred to in that subsection may be made to the Chairperson (or, if a Deputy Chairperson is nominated under that section in that regard, to that Deputy Chairperson) is the time between the referral of the complaint and the commencement of the inquiry.

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Clause 11 Nurses and Midwives Regulation 2008

Part 4 Nurses and Midwives Tribunal

Part 4 Nurses and Midwives Tribunal

11 Payment of ordinary members of Tribunal

For the purposes of section 59 (8) of the Act, a member of the Tribunal (other than the Chairperson or a Deputy Chairperson) is entitled to be paid such remuneration as the Minister may from time to time determine.

12 Payment of Chairperson and Deputy Chairperson of Tribunal

For the purposes of section 60 (5) of the Act, the Chairperson or a Deputy Chairperson of the Tribunal is entitled to be paid such remuneration as the Minister may from time to time determine.

13 Appeals against decisions of Tribunal

For the purposes of section 67 (1) and (5) of the Act, the prescribed time within which an appeal may be made to the Supreme Court against a decision or exercise of power referred to in that subsection is the time ending:

- (a) on the date occurring 21 days after the date on which:
 - (i) notice of the Tribunal's reasons for the finding, or
 - (ii) notice of the Tribunal's reasons for the exercise of power, or
 - (iii) a statement under section 66 (3) of the Act, or
 - (iv) a notice under section 66 (6) (b) of the Act, whichever is the later, is given to the appellant, or
- (b) on such later date as the Supreme Court may allow in a particular case.

Part 5 Miscellaneous

14 Letters after name

- (1) Nurses may indicate their entitlement to practise as nurses by placing after their names the following letters:
 - (a) in the case of a registered nurse—"R.N.",
 - (b) in the case of a nurse enrolled in List "A" of the Roll—"E.N.",
 - (c) in the case of a nurse enrolled in List "B" of the Roll—"E.N. (M'craft)".
- (2) Registered midwives may indicate their entitlement to practise as midwives by placing "R.M." after their names.

15 Badges

For the purposes of sections 5 (2) and 37 of the Act, the prescribed design for a badge is one having on it the words "NURSES AND MIDWIVES BOARD", a representation of the State arms of New South Wales, and appropriate letters or symbols to convey information as to the wearer's registration, enrolment or authorisation.

16 Election of Board members

For the purposes of section 9 (2) (a), (b) and (c) of the Act, the election of any nurse or midwife to be a member of the Board is to be held and conducted in the manner set out in Schedule 1.

17 Recognition of institutions and qualifications

- (1) A hospital, a nursing home or an educational or other institution (together with the curriculum for its course and the diploma, certificate or other qualification awarded by it) may be recognised by the Board under section 10 (1) (g) of the Act if and only if:
 - (a) curriculum details of the course that it offers or to which it contributes instruction, clinical experience or other training have been forwarded to the Board, and
 - (b) the objective of the course is the achievement by students of levels of educational and clinical competence approved by the Board, and
 - (c) the course itself is approved by the Board.
- (2) The Board is to notify its recognition in writing directly to the hospital, home or institution.

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Clause 18 Nurses and Midwives Regulation 2008

Part 5 Miscellaneous

- (3) The hospital, home or institution is to notify the Board of any change of curriculum that occurs after details have been forwarded under this clause.
- (4) The Board may, by writing to the hospital, home or institution, revoke or vary its recognition if it is satisfied:
 - (a) that the course is not being conducted in accordance with any conditions to which the recognition is subject, or
 - (b) that the course is not being conducted in accordance with the details received by the Board under this clause immediately before the Board granted recognition to the hospital, home or institution.

18 Forms

- (1) For the purposes of section 24 (1) of the Act:
 - (a) the prescribed form for a certificate of temporary registration to practice nursing is Form 1 set out in Schedule 2, and
 - (b) the prescribed form for a certificate of temporary registration to practice midwifery is Form 2 set out in Schedule 2.
- (2) For the purposes of section 28B (1) of the Act, the prescribed form for a certificate of temporary enrolment is Form 3 set out in Schedule 2.

19 Notice of incapacity

- (1) For the purposes of section 35 of the Act, the person required to cause notice of mental incapacity to be forwarded to the Board is:
 - (a) in the case of a nurse or midwife who is a mentally incapacitated person and becomes a patient at a mental health facility because of that incapacity—the medical superintendent of the facility, or
 - (b) in the case of a nurse or midwife who is a protected person under the *Protected Estates Act 1983*—the Protective Commissioner.
- (2) Notice for the purposes of section 35 of the Act is to be given by telephone within one day, and posted within 7 days, after the nurse or midwife is admitted to the facility or becomes a protected person.

20 Excluded offences

Sections 42A (1) (a), 42B (1) (a) and 42C of the Act do not apply in respect of any offence under the road transport legislation (within the meaning of the *Road Transport (General) Act 2005*) except for the following offences:

- (a) an offence under section 25A (1), (2) or (3) of the *Road Transport (Driver Licensing) Act 1998*,

- (b) an offence under section 171 (2) of the *Road Transport (General) Act 2005*,
- (c) an offence under section 9, 12 (1), 42 (2), 43 or 70 of the *Road Transport (Safety and Traffic Management) Act 1999*,
- (d) an offence under section 42 (1) of the *Road Transport (Safety and Traffic Management) Act 1999*, but only if the nurse or midwife is, by way of penalty, sentenced to imprisonment or fined a sum of not less than \$200,
- (e) any other offence under the road transport legislation if the court orders the disqualification of the nurse or midwife from holding a driver licence.

21 Fees

The fees set out in Schedule 3 are prescribed for the purposes of the provisions of the Act and this Regulation set out in that Schedule.

22 Infection control standards

- (1) A nurse or midwife must not, without reasonable excuse, fail to comply with the infection control standards set out in Schedule 4 to the extent that they apply to the nurse or midwife in the practice of nursing or midwifery.
- (2) In determining whether or not a nurse or midwife has a reasonable excuse for failing to comply with a standard, particular consideration is to be given to the following:
 - (a) whether the circumstances involved the provision of emergency treatment,
 - (b) whether the nurse's or midwife's employer failed to provide the necessary equipment, including providing access to it and training in its use, that would have enabled the nurse or midwife to comply with the standard (and whether the failure to provide such equipment was reported by the nurse or midwife to the Director-General).

23 Savings provision

Any act, matter or thing that, immediately before the repeal of the *Nurses and Midwives Regulation 2003*, had effect under that Regulation continues to have effect under this Regulation.

Schedule 1 Election of Board members

(Clause 16)

1 Definitions

In this Schedule:

close of nominations for an election means the final time and date fixed by the returning officer for the close of nominations for the election.

close of the ballot for an election means the final time and date fixed by the returning officer for the close of the ballot for the election.

election means an election conducted under section 9 (2) (a), (b) or (c) of the Act for the purpose of electing members of the Board.

inner envelope and **outer envelope** have the same meanings as in clause 7.

qualified voter means:

- (a) in relation to an election of a registered nurse under section 9 (2) (a) of the Act, a person who is a registered nurse, and
- (b) in relation to an election of a registered midwife under section 9 (2) (b) of the Act, a person who is a registered midwife, and
- (c) in relation to an election of an enrolled nurse or enrolled nurse (mothercraft) under section 9 (2) (c) of the Act, a person who is an enrolled nurse or enrolled nurse (mothercraft).

returning officer means:

- (a) the Electoral Commissioner for New South Wales, or
- (b) a person nominated by the Electoral Commissioner for the purpose of exercising the functions of a returning officer for an election.

2 Notice of election

- (1) The returning officer must, as soon as practicable after being notified in writing by or on behalf of the Minister that an election is required to be held, cause to be published in the Gazette and in at least one daily newspaper circulating generally in New South Wales a notice that:
 - (a) states that an election is to be held, and
 - (b) calls for the nomination of candidates, and
 - (c) advises where nomination forms may be obtained, and
 - (d) states the place where nominations may be lodged, and
 - (e) fixes the times and dates for the close of nominations, and

- (f) fixes the times and dates for the close of the ballot (being at least 60 days after the date on which the notice is published and as near as practicable to 1 December in every fourth year after 1 December 1997).
- (2) The returning officer may, by a further notice published in accordance with this clause, fix a later time and date for the close of nominations.

3 Nominations

- (1) A nomination must be lodged with the returning officer before the close of nominations and must set out the following particulars:
 - (a) the full name of the candidate nominated,
 - (b) the residential address of that candidate,
 - (c) an endorsement of that candidate's consent to his or her nomination,
 - (d) the full names, residential addresses and signatures of at least 2 nominators, being qualified voters other than that candidate.
- (2) A nomination may only be made in respect of a candidate who is qualified to be elected in the election.
- (3) A candidate may withdraw his or her nomination for an election by notification in writing delivered to the returning officer at any time before the close of nominations for the election.
- (4) If a candidate consents to nomination for election in more than one of the classes specified in section 9 (2) (a), (b) and (c) of the Act and if all but one of the nominations of the candidate are not withdrawn by the close of nominations, the returning officer must reject all nominations of the candidate.

4 Candidate information sheet

- (1) A candidate for election may, at any time before the close of nominations, submit in writing to the returning officer information intended for inclusion in a candidate information sheet.
- (2) As soon as practicable after the close of nominations, the returning officer must, if a ballot is required to be held for the election, draw up a candidate information sheet consisting of the information, if any, submitted to the returning officer under this clause.
- (3) The returning officer may, when drawing up a candidate information sheet, reject any information submitted if the returning officer considers that the information is:
 - (a) inappropriate for inclusion in a candidate information sheet, or
 - (b) misleading in a material particular, or

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Schedule 1 Election of Board members

- (c) more than 100 words in length.
- (4) If the returning officer rejects information under subclause (3), he or she is to give the candidate notice that the information is unsuitable and give the candidate 7 days to provide suitable information.
- (5) If the candidate does not provide information that the returning officer considers to be suitable within those 7 days, no information about the candidate is to be included on the candidate information sheet.
- (6) Information concerning candidates must appear on a candidate information sheet in the same order in which the candidates are listed on the ballot-paper relating to them.
- (7) The returning officer must not include on the candidate information sheet any non-business telephone number or email address, or residential address, of a candidate.

5 Procedure on close of nomination

- (1) If, after the close of nominations, there is not a greater number of persons nominated than are required for election, the returning officer is to declare those persons duly elected.
- (2) If, after the close of nominations, the number of persons nominated is greater than the number required for election, a ballot is to be held.

6 Electoral roll

- (1) As soon as practicable after it becomes apparent that a ballot must be held for an election, the returning officer must notify the Registrar:
 - (a) that a ballot is to be held for the election, and
 - (b) that an electoral roll for the election is required.
- (2) The Registrar must (within 7 days) provide the returning officer with:
 - (a) a roll containing the full names (consecutively numbered and listed in alphabetical order) and addresses of each person who is a qualified voter, and
 - (b) an appropriately addressed label, or an appropriately addressed envelope, for each person whose name is included in that roll.

7 Conduct of ballot

- (1) If a ballot is to be held, the returning officer:
 - (a) must determine the order in which the candidates' names are to be listed on the ballot-paper by means of a ballot held in accordance with the procedure prescribed for the purposes of section 82A of the *Parliamentary Electorates and Elections Act 1912*, and

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- (b) must cause sufficient ballot-papers to be printed so that a ballot-paper can be sent to each qualified voter, and
 - (c) if a candidate information sheet has been drawn up, must cause sufficient copies of it to be printed so that a copy can be sent to each qualified voter.
- (2) The ballot-paper must contain:
- (a) the names of the candidates, arranged in the order determined in accordance with subclause (1) (a), with a small square opposite each name, and
 - (b) if the returning officer considers that the names of 2 or more candidates are so similar as to cause confusion, such other matter as the returning officer considers will distinguish between the candidates, and
 - (c) directions as to the manner in which a vote is to be recorded and returned to the returning officer.
- (3) The returning officer must, at least 20 days before the date fixed for the close of the ballot, post to each qualified voter:
- (a) a ballot-paper initialled by the returning officer, and
 - (b) an envelope marked "ballot paper only" (the *inner envelope*),
 - (c) a business reply envelope (the *outer envelope*) addressed to the returning officer containing on the rear flap spaces for the insertion of a voter's name, address and signature, and
 - (d) where appropriate, a candidate information sheet relating to the candidates included in the poll.
- (4) In order to vote at an election, a qualified voter:
- (a) must record a vote on the ballot-paper in accordance with the directions shown on it, and
 - (b) must place the completed ballot-paper (folded so that the vote cannot be seen) in the inner envelope, and
 - (c) must seal the inner envelope, and
 - (d) must complete, on the back of the inner envelope, the person's full name and address as it appears on the roll, and
 - (e) must sign the back of the inner envelope, and
 - (f) must place the inner envelope inside the outer envelope, and
 - (g) must return the outer envelope containing the inner envelope to the returning officer so as to be received before the close of the ballot.

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Schedule 1 Election of Board members

- (5) The returning officer may, on written application made to the returning officer, and if satisfied that a ballot-paper has been lost or destroyed, supply a duplicate ballot-paper to the person to whom the lost or destroyed ballot-paper was issued.
- (6) An election is not invalid because:
 - (a) a qualified voter did not receive a ballot-paper, or
 - (b) the returning officer did not receive a ballot-paper sent to the returning officer.

8 Examination of envelopes

- (1) The returning officer must, as soon as practicable after the receipt of an outer envelope purporting to contain an inner envelope:
 - (a) open the outer envelope and remove the inner envelope, and
 - (b) examine the inner envelope for the purpose of deciding whether to accept or reject the inner envelope.
- (2) The returning officer is to reject an inner envelope if:
 - (a) the envelope does not have legibly marked on its rear flap a name, address and signature that appear to the returning officer to be those of a qualified voter, or
 - (b) the envelope is not sealed, or
 - (c) the envelope is received by the returning officer after the close of the ballot.

9 Scrutiny of votes

- (1) The result of a ballot is to be ascertained by the returning officer as soon as practicable after the close of the ballot.
- (2) The scrutiny of votes is to be conducted as follows:
 - (a) the returning officer is to produce, unopened, all the inner envelopes received (except those envelopes rejected under clause 8 (2)),
 - (b) the returning officer is then to open each envelope, extract the ballot-paper and (without unfolding it) place it in a locked ballot-box,
 - (c) when the ballot-papers from all such envelopes have been placed in the ballot-box, the returning officer is then to unlock the ballot-box and remove the ballot-papers,
 - (d) the returning officer is then to examine each ballot-paper and reject those that are informal,

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- (e) the returning officer is then to proceed to count the votes in accordance with clause 10 and ascertain the result of the election.
 - (3) The returning officer is to reject a ballot-paper as being informal if:
 - (a) the ballot-paper contains any matter by which the voter may be identified, or
 - (b) the ballot-paper is not completed in accordance with the directions printed on the ballot-paper.
 - (4) Each candidate is entitled to appoint a scrutineer to represent the candidate at all stages of the scrutiny.
 - (5) A candidate who appoints a scrutineer must cause written notice of the appointment to be given to the returning officer.

10 Method of voting and counting

- (1) At an election a qualified voter is:
 - (a) in the case of an election under section 9 (2) (a) of the Act, required to record a vote for 3 candidates, and
 - (b) in the case of an election under section 9 (2) (b) or (c) of the Act, required to record a vote for 1 candidate, and
 - (c) permitted to record a vote for as many more candidates as the voter pleases,so as to indicate, in such manner as is required by this Part, the candidates for whom the voter votes and the order of the voter's preference for them.
- (2) In the case of an election under section 9 (2) (a) of the Act, where there are 3 persons to be elected, the method of counting the votes is to be according to an optional multi-preferential system in which the first, second and third preference votes (represented by the numbers "1", "2" and "3", respectively, marked on the ballot-paper) are regarded as primary votes.
- (3) In the case of an election under section 9 (2) (b) or (c) of the Act, where there is only one person to be elected:
 - (a) the method of counting the votes is to be as set out in Part 2 of the Seventh Schedule to the *Constitution Act 1902*, and
 - (b) for the purpose of applying the provisions of that Part to the election, a reference in those provisions to the returning officer is taken to be a reference to the returning officer within the meaning of this Schedule.

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11 Returning officer's decision final

If the returning officer is by this Regulation permitted or required to make a decision on any matter relating to the conduct of an election under this Schedule, the decision of the returning officer on that matter is final.

12 Report of election

When he or she first ascertains the result of an election, the returning officer must furnish a report, in writing, of the result to the Minister and the Registrar and must cause the result to be published in the Gazette and in at least one daily newspaper circulating generally in New South Wales.

13 Death of a candidate

If a candidate dies after the close of nominations and before the close of the ballot:

- (a) the returning officer is to cause notice of the death to be published in the Gazette, and
- (b) all proceedings taken after the Minister notified the returning officer that the election was required to be held are of no effect and must be taken again.

14 Offences

A person must not:

- (a) vote, or attempt to vote, more than once in any election, or
- (b) vote, or attempt to vote, in an election in which the person is not entitled to vote, or
- (c) make a statement that the person knows to be false or misleading in a material particular (not being a statement verified by statutory declaration):
 - (i) to the returning officer in connection with an election, or
 - (ii) in any document that the person furnishes for the purposes of an election.

Maximum penalty: 5 penalty units.

Schedule 2 Forms

(Clause 18)

Form 1 Certificate of temporary registration to practise nursing

Nurses and Midwives Act 1991 (section 24)

This is to certify that the Nurses and Midwives Board has temporarily registered *[name]* under the *Nurses and Midwives Act 1991* as a nurse, and has authorised that person as a nurse practitioner,* subject to the following conditions:*

.....
.....

from *[date]* to *[date]*.

This certificate was issued at Sydney on *[date]*.

President of the Board

Registrar

* Delete the words “and has authorised that person as a nurse practitioner,” or “subject to the following conditions:” if they are not appropriate.

Form 2 Certificate of temporary registration to practise midwifery

Nurses and Midwives Act 1991 (section 24)

This is to certify that the Nurses and Midwives Board has temporarily registered *[name]* under the *Nurses and Midwives Act 1991* as a midwife, and has authorised that person as a midwife practitioner,* subject to the following conditions:*

.....
.....

from *[date]* to *[date]*.

This certificate was issued at Sydney on *[date]*.

President of the Board

Registrar

* Delete the words “and has authorised that person as a midwife practitioner,” or “subject to the following conditions:” if they are not appropriate.

Form 3 Certificate of temporary enrolment

Nurses and Midwives Act 1991 (section 28B)

This is to certify that the Nurses and Midwives Board has temporarily enrolled *[name]* under the *Nurses and Midwives Act 1991* as a nurse, subject to the following conditions:*

.....
.....

from *[date]* to *[date]*.

This certificate was issued at Sydney on *[date]*.

President of the Board

Registrar

* Delete the words “subject to the following conditions:” if they are not appropriate.

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Schedule 3 Fees

Schedule 3 Fees

(Clauses 6 and 21)

Fees under the Act

Section 16 (5)	\$10
Section 18 (1)	\$80
Section 19 (1)	\$80
Section 19A (4)	\$150
Section 20 (4)	\$150
Section 22 (3)	\$12
Section 23 (1) (d)	nil
Section 24 (1)	\$80
Section 26 (7)	\$10
Section 27 (1)	\$80
Section 28	\$80
Section 28A (1) (d)	nil
Section 28B (1)	nil
Section 33 (1)	\$70
Section 33 (4)	\$80

Fees under this Regulation

Clause 6 (1)	\$20
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Schedule 4 Infection control standards

(Clause 22)

Part 1 Preliminary

1 Definitions

- (1) In this Schedule:

AS/NZS 4815 means AS/NZS 4815:2006, *Office-based health care facilities—Reprocessing of reusable medical and surgical instruments and equipment, and maintenance of the associated environment*.

AS/NZS 4187 means AS/NZS 4187:2003, *Cleaning, disinfecting and sterilizing reusable medical and surgical instruments and equipment, and maintenance of associated environments in health care facilities*.

body substance includes any human bodily secretion or substance other than blood.

invasive procedure means any one or more of the following:

- (a) surgical entry into body tissue, cavities or organs,
- (b) surgical repair of injuries,
- (c) cardiac catheterisation and angiographic procedures,
- (d) vaginal or caesarean delivery or any other obstetric procedure during which bleeding may occur,
- (e) the manipulation, cutting, or removal of any oral or peri-oral tissue, including tooth structure, during which bleeding may occur.

patient includes (but is not limited to) a person who is accessing medical or health services or who is undergoing any medical or health procedure.

sharps means any objects capable of inflicting penetrating injury, and includes hollow bore needles, suture needles, scalpel blades, wires, trocars, auto lancets, stitch cutters and broken glassware.

- (2) The requirements set out in this Schedule apply to a nurse or midwife who is assisting in performing a procedure in the same way as they apply to a nurse or midwife who is actually performing the procedure.

Part 2 General standards applying to nurses and midwives

2 General precautions and aseptic techniques

- (1) Precautions must be taken to avoid direct exposure to a patient's blood or other body substances. This requirement applies regardless of whether there is any perceived risk of infection.
- (2) Aseptic techniques must be used in the course of complying with the requirements of this Schedule.

3 Hand and skin cleaning

- (1) Hands must be cleaned:
 - (a) immediately before and after any direct patient care, and
 - (b) immediately after handling blood or other body substances.
- (2) Subclause (1) does not apply in circumstances where treatment is required to be performed urgently and cleaning facilities are not readily available.
- (3) Hands may be cleaned by:
 - (a) using washing facilities involving water and a soap or antiseptic, or
 - (b) using non-water cleansers or antiseptics.
- (4) Hands or other skin surfaces that are contaminated with a patient's blood or other body substances must be cleaned as soon as it is practicable to clean them.
- (5) The requirement to clean hands applies regardless of whether gloves are also required to be worn.

4 Protective gowns and aprons

A gown or apron made of impervious material must be worn while performing any procedure where there is a likelihood of clothing being splashed or contaminated with blood or other body substances.

5 Gloves

- (1) Gloves must be worn while handling blood or other body substances.
- (2) In particular, gloves must be worn:
 - (a) during any procedure where direct contact is anticipated with a patient's blood or other body substances, mucous membranes or non-intact skin, and

- (b) while suctioning a patient, and
 - (c) while handling items or surfaces that have come into contact with blood or other body substances, and
 - (d) while performing an invasive procedure, venipuncture or a finger or heel stick.
- (3) Sterile gloves must be worn if the procedure involves contact with tissue that would be sterile under normal circumstances.
- (4) Gloves must be changed and discarded:
- (a) as soon as they are torn or punctured, and
 - (b) after contact with each patient.
- (5) Gloves must also be changed if separate procedures are being performed on the same patient and there is a risk of infection from one part of the body to another.

6 Masks and protective eye wear

- (1) A fluid repellent mask and protective eye wear must be worn while performing any procedure where there is a likelihood of splashing or splattering of blood or other body substances.
- (2) A mask must be worn when in close contact with patients known to have an infectious disease (or suspected of having such a disease) if the disease is capable of being transmitted by the airborne or droplet route. A particulate mask capable of filtering to 0.3µm must be worn when in close contact with a patient known or suspected to be infected with tuberculosis.
- (3) In cases where a mask is required to be worn, it must be worn and fitted in accordance with the manufacturer's instructions.
- (4) A mask must be discarded once it has been worn and it must not be used again.
- (5) In cases where protective eye wear is required to be worn, it must be worn and fitted in accordance with the manufacturer's instructions.
- (6) Protective eye wear must be discarded once it has been worn and not used again unless it is reusable in which case it is to be cleaned in accordance with the manufacturer's instructions.

7 Sharps

- (1) Sharps must not be passed by hand between a nurse or midwife and any other person. However, this requirement does not apply if, in any case involving an invasive procedure, the proper conduct of the procedure would be adversely affected.

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- (2) A puncture-resistant tray must be used to transfer sharps.
- (3) A needle must not be removed from a disposable syringe for disposal, or be purposely broken or otherwise manipulated by hand, unless:
 - (a) it is necessary to remove the needle for technical reasons, or
 - (b) the nurse or midwife is performing a procedure in which the needle is required to be bent.
- (4) A needle must not be bent after it is contaminated with blood or other body substances.
- (5) In any case where resheathing of a needle is required:
 - (a) the needle must be properly recapped, and
 - (b) the sheath must not be held in the fingers, and
 - (c) either a single-handed technique or forceps, or a suitable protective guard designed for the purpose, must be used.
- (6) Reusable sharps must, immediately after being used, be placed in a puncture-resistant container specially kept for that purpose and labelled as such.
- (7) Non-reusable sharps must, immediately after being used, be disposed of in a puncture-resistant container.

8 Management of waste

- (1) Clinical waste must be properly packaged to protect against potential exposure to infectious agents and to facilitate the proper handling, storage and treatment or disposal of the waste.
- (2) Splashing or contamination of skin while disposing of blood or other body substances must be avoided as far as practicable.
- (3) Nothing in this clause limits any other requirement under this Part.

Part 3 Specific standards applying to nurses and midwives

9 Sterile medications and solutions

- (1) A sterile needle and syringe must be used to withdraw any medication or solution from a vial or ampoule (or other similar container).
- (2) The needle and syringe must be discarded once the needle and syringe have been used.
- (3) A medication or solution may be taken from a multi-dose vial or ampoule (or other similar container) only if the medication or solution is not reasonably available in another form.

- (4) Precautions must be taken to ensure that contaminated material or fluid is not injected into a multi-dose vial or ampoule (or other similar container).

10 Anaesthetic breathing circuits

- (1) This clause applies in any case where an anaesthetic breathing circuit is used.
- (2) If the breathing circuit uses a filter:
 - (a) the filter must be discarded after each patient, and
 - (b) the part of the breathing circuit between the patient and the filter must be discarded, or cleaned and disinfected, after each patient, and
 - (c) the part of the breathing circuit between the carbon dioxide absorber and the filter must be discarded, or be cleaned and disinfected, at the end of each procedure list.
- (3) If the breathing circuit does not use a filter, the breathing circuit must be discarded, or be cleaned and disinfected, after each patient.

11 Invasive procedures

- (1) In cases where it is technically feasible, retractors must be used for exposure and access during invasive procedures.
- (2) Fingers must not be used for the purposes of an invasive procedure to expose or increase access for the passage of a suture.
- (3) Only one sharp at a time is to be placed in a sharps tray that is being used in connection with an invasive procedure.
- (4) Forceps or a needle holder must be used when carrying out suturing both to pick up the suture needle and to draw it through tissue.

Part 4 Processing of instruments and equipment

12 Cleaning of instruments and equipment

- (1) Any instrument or equipment that comes into contact with intact skin must be cleaned before it is used.
- (2) Any instrument or equipment that is required under this Part to be sterilised or disinfected must be cleaned before it is sterilised or disinfected.
- (3) The process of cleaning must involve water and mechanical or physical action (such as washing machines) and a cleaning agent.

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- (4) All cleaning agents must be removed from instruments and equipment by rinsing prior to further processing.
- (5) In this clause, *cleaning agent* means a detergent and includes proteolytic enzyme substances.
- (6) The method of cleaning must be consistent with AS/NZS 4187 or (in the case of an office-based practice) AS/NZS 4815.

13 Disinfection of instruments and equipment

- (1) Any instrument or equipment that comes into contact with non-sterile tissue (other than intact skin) must be disinfected before it is used with a disinfectant specified in the Australian Register of Therapeutic Goods (within the meaning of the *Therapeutic Goods Act 1989* of the Commonwealth), and the relevant manufacturer's instructions must be followed.
- (2) The process of disinfection must involve either thermal or chemical methods. Chemical disinfection may only be used in cases where thermal methods are unsuitable.
- (3) The method of disinfection must be consistent with AS/NZS 4187 or (in the case of an office-based practice) AS/NZS 4815.

14 Sterilisation of instruments and equipment

- (1) Any instrument or equipment used to enter, or that is capable of entering, tissue that would be sterile under normal circumstances, or the vascular system of a patient, must be sterilised before it is used.
- (2) The method of sterilisation must be compatible with the particular type of instrument or equipment concerned and consistent with AS/NZS 4187 or (in the case of an office-based practice) AS/NZS 4815.
- (3) If a steriliser is used (whether it is a benchtop or portable steriliser or a permanently plumbed or wired steriliser), the following criteria must be met:
 - (a) the relevant manufacturer's instructions must be followed,
 - (b) an ongoing monitoring program must be followed which reflects the requirements of Table 7.1 Calibration, Monitoring and Maintenance of Sterilizers of AS/NZS 4187 or (in the case of an office-based practice) Table 7.1 Performance Testing, Monitoring, Calibration and Maintenance of Sterilizers of AS/NZS 4815.

BY AUTHORITY
