

[Act 1996 No 61]



New South Wales

## **Nurses Amendment Bill 1996**

### **Explanatory note**

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

#### **Overview of Bill**

The objects of this Bill are:

- (a) to increase the membership of the Nurses Registration Board from 10 to 13 members (the additional members being a registered nurse authorised to practise midwifery, a registered nurse practising in the mental health area, and an additional consumer representative nominated by the Minister), and
  - (b) to provide for the constitution of Impaired Nurses Panels to deal with complaints and other referred matters concerning nurses who suffer from an impairment (ie, any physical or mental impairment, disability, condition or disorder, such as habitual drunkenness or addiction to a deleterious drug, which detrimentally affects or is likely to detrimentally affect the person's physical or mental capacity to practise nursing).
-

## 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 Schedules 1 and 2.

### **Schedule 1 Amendments relating to membership of the Nurses Registration Board**

**Schedule 1 [1]** increases the membership of the Nurses Registration Board from 10 to 13. The additional members will be a registered nurse who is authorised to practise midwifery and who is elected in accordance with the regulations (see **Schedule 1 [2]**), a registered nurse nominated by the Minister who practises nursing in the mental health area (see **Schedule 1 [3]**), and an additional representative of consumers who is nominated by the Minister (see **Schedule 1 [4]**).

**Schedule 1 [5]** consequentially increases the size of a quorum for a meeting of the Board from 6 to 8 members.

**Schedule 1 [7]** provides that until elections are held under the regulations for the purposes of electing the new elected member of the Board, the person appointed is to be a registered nurse authorised to practise midwifery who is nominated by the Minister. **Schedule 1 [6]** enables savings and transitional regulations to be made as a consequence of the proposed Act.

### **Schedule 2 Amendments relating to impairment matters**

**Schedule 2 [4]** inserts Division 4 of Part 5 in order to provide an alternative to the current disciplinary procedures that follow the making of complaints about nurses. The proposed Division provides for references to or notifications of, and inquiry by, Impaired Nurses Panels and the Board when it appears (whether or not a complaint has been made) that a nurse suffers from an impairment. Section 4A of the Act presently provides that a person suffers from an impairment for the purposes of the Act if the person suffers from any physical or mental impairment, disability, condition or disorder which detrimentally affects (or is likely to detrimentally affect) the person's physical or mental capacity to practise nursing. This includes habitual drunkenness or addiction to a deleterious drug.

Various actions can be taken if the nurse concerned is found to suffer an impairment. A Panel may, for example, recommend counselling or that the Board suspend the nurse from practising nursing for a specified period. Such a recommendation requires the voluntary consent of the nurse to be put into effect. The provisions ensure that such a nurse is notified of a proposed inquiry, is entitled to make representations and have his or her privacy protected.

Similar provisions apply under the *Medical Practice Act 1992* in respect of medical practitioners who suffer an impairment.

**Schedule 2 [4]** also inserts Division 5 of Part 5 to provide for the constitution of Panels. A Panel is constituted when the Board decides to refer a matter concerning a nurse suffering from an impairment and the Board appoints 3 persons to sit as an Impaired Nurses Panel. At least one of the appointed persons is to be a medical practitioner and at least one is to be a registered nurse.

**Schedule 2 [1]** defines *Panel* as an Impaired Nurses Panel constituted under the proposed Division 5 of Part 5. **Schedule 2 [2]** enables the Board to refer a complaint to such a Panel, and **Schedule 2 [3]** is a consequential amendment.

**Schedule 2 [5]** provides protection for Panel members from liability for things done in good faith for the purposes of executing their functions under the Act.

**Schedule 2 [6]** enables regulations to be made to deal with procedure before a Panel.