

Western Australia

Nurses Amendment Act 2003

As at 09 Apr 2003

No. 9 of 2003

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Nurses Amendment Act 2003

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Western Australia

Nurses Amendment Act 2003

No. 9 of 2003

An Act to amend the *Nurses Act 1992* and to consequentially amend other Acts and the *Poisons Regulations 1965*.

[Assented to 9 April 2003]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This Act may be cited as the *Nurses Amendment Act 2003*.

2. Commencement

This Act comes into operation on the day on which it receives the Royal Assent.

Part 2 — Nurses Act 1992 amended

3. Nurses Act 1992 amended

The amendments in this Part are to the *Nurses Act 1992**.

[* *Reprinted as at 18 May 1994.*

For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 259.]

4. Section 4 amended

Section 4 is amended by inserting in the appropriate alphabetical positions the following definitions —

“

“designated area” means an area designated by the Commissioner of Health under section 23(2)(e) of the *Poisons Act 1964*;

“nurse practitioner” means a nurse who is registered under section 22A as a nurse practitioner;

”.

5. Section 9 amended

- (1) Section 9(1) is repealed and the following subsection is inserted instead —

“

- (1) The Board may, with the approval of the Governor, by publication in the *Gazette* issue codes of practice with respect to —

- (a) the practice of nursing and the conduct of nurses;
- (b) the practice of any nursing speciality and the conduct of nurses practising that speciality;
- (c) nurse practitioners, in accordance with subsection (2a).

”.

(2) After section 9(2) the following subsection is inserted —

“

(2a) A code of practice referred to in subsection (1)(c) is to contain only information recommended by the Commissioner of Health (within the meaning of the *Health Act 1911*) with respect to the functions of nurse practitioners, including —

- (a) the possession, use, supply or prescription of poisons, as defined in the *Poisons Act 1964*, by a nurse practitioner;
- (b) the requesting, or undertaking, of diagnostic testing or therapies;
- (c) the undertaking of treatments by a nurse practitioner; and
- (d) such other functions as are necessary or convenient with respect to the practice of nursing as a nurse practitioner and the conduct of nurse practitioners,

and anything incidental or conducive to those functions.

”.

(3) Section 9(5) is amended by inserting after “subsection (4)” —

“ or Part III of the *Radiation Safety Act 1975* ”.

6. Section 16 amended

Section 16(3) is amended as follows:

- (a) by inserting after “the registration of” —
“ a nurse practitioner, ”;
- (b) by inserting after “no member of the committee” —
“ is a nurse practitioner, ”;
- (c) by inserting after “appoint a” —

“ nurse practitioner, ”.

7. Section 17 amended

Section 17(3) is amended as follows:

- (a) by inserting after “to an enrolled nurse” —
“ , a nurse practitioner ”;
- (b) by inserting after “is an enrolled nurse” in both places where it occurs —
“ , nurse practitioner ”.

8. Section 22A inserted

After section 22 the following section is inserted —

“

22A. Registration of nurse practitioners

- (1) Any person who applies to the Board and satisfies it that he or she complies with the requirements of subsection (2) shall, subject to this Act and on payment of the fee prescribed under section 31, be registered under this section as a nurse practitioner in division 1 of the register.
- (2) The requirements referred to in subsection (1) are that the person —
 - (a) is registered, or entitled to be registered, as a nurse under section 22 in division 1 of the register; and
 - (b) holds an approved educational qualification.
- (3) When a person is registered as a nurse practitioner, the Board shall cause the name of that person to be entered in the register.

”.

9. Section 23 amended

Section 23(1) is amended as follows:

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- (a) by inserting after “section 22(2)(d)” —
“ or 22A(2)(b) ”;
- (b) in paragraph (a) by inserting after “approved by the Board” —
“ , in relation to that section, ”;
- (c) in paragraph (b) by inserting after “approved by the Board” —
“ , in relation to that section ”.

10. Section 26 amended

Section 26(1) is amended as follows:

- (a) after “section 22(1)” by inserting —
“ or 22A(1) ”;
- (b) in paragraph (a) by inserting after “section 22” —
“ or 22A, as is relevant ”.

11. Section 27 amended

Section 27 is amended as follows:

- (a) after “section 22(1) or (3)” by inserting —
“ or 22A(1) ”;
- (b) after “section 22(2) or (3)” by inserting —
“ or 22A(2) ”.

12. Section 28 amended

Section 28(4) is amended by inserting after “section 22” —
“ or 22A ”.

13. Section 29 amended

- (1) Section 29(1) is amended by inserting after “section 22” —
“ , 22A ”.

- (2) Section 29(3) is amended by inserting after “section 22,” —
“ 22A, ”.

14. Section 30A inserted

After section 30 the following section is inserted —

“

30A. Effect of registration as a nurse practitioner

Subject to this Act, registration under section 22A confers on the holder of a certificate of registration the right to carry on at a designated area the practice of nursing as a nurse practitioner under the title of “nurse practitioner”.

”.

15. Section 31 amended

Section 31 is amended by inserting after “section 22(1) or (3)” —

“ , 22A(1) ”.

16. Section 34 amended

Section 34 is amended by deleting the subsection designation “(1)”.

17. Section 36 amended

- (1) Section 36(1) is amended by inserting after “section 22” —

“ , 22A ”.

- (2) Section 36(2) is amended by inserting after paragraph (a) the following paragraph —

“

(aa) a certificate of registration specifying that a person may practise as a nurse practitioner is evidence that the person to whom the certificate is issued has entered in the register, in respect of his or her registration, qualifications that are approved by the Board in respect of the practice of nursing as a nurse practitioner;

”.

18. Section 41 amended

(1) Section 41(1) is amended by inserting after “registered” —

“ under section 22 ”.

(2) After section 41(1) the following subsection is inserted —

“

(1a) Where a person is registered under section 22A but a period of 3 years has elapsed during which the person has not —

(a) practised as a nurse practitioner; or

(b) completed a qualification or a refresher course for nurse practitioners approved by the Board,

the person shall notify the Board of that fact.

”.

(3) After section 41(2) the following subsection is inserted —

“

(3) The Board shall remove from the register the name of any person registered as a nurse practitioner —

(a) who has given notice to the Board under subsection (1a); or

(b) in respect of who it is satisfied that the subsection applies but who has not given such notice.

”.

19. Section 42 amended

- (1) Section 42(1) is amended by inserting after “41(2)” —
“ or (3) ”.
- (2) Section 42(2) is amended by inserting after “section 22” —
“ , 22A ”.

20. Section 44 amended

Section 44(1)(b) is amended as follows:

- (a) by inserting after “or service,” —
“ or as a nurse practitioner, ”;
- (b) by inserting after “the service” —
“ or as a nurse practitioner, as is ”.

21. Section 47 amended

- (1) Section 47 is amended by inserting before “Notwithstanding” the subsection designation “(1)”.
- (2) At the end of section 47 the following subsections are inserted —

“

- (2) Notwithstanding section 30, a person shall not use the title “nurse practitioner” unless the person’s name is entered in the register as a nurse practitioner.
- (3) A person shall not hold himself or herself out to be practising as a nurse practitioner unless —
 - (a) the person’s name is entered in the register as a nurse practitioner; and
 - (b) the person is practising as a nurse practitioner in a designated area.

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Penalty:

- (a) for a first offence, \$2 500;
- (b) for a second or subsequent offence, \$5 000.

”.

22. Section 48 amended

After section 48(1)(a) the following paragraph is inserted —

“

- (aa) registered or entitled, either alone or with others, to practise nursing as a nurse practitioner, unless that person is registered as a nurse practitioner;

”.

23. Section 69 amended

Section 69(c) is amended by inserting after “generally” —

“ , as a nurse practitioner, ”.

Part 3 — Consequential amendments

Division 1 — *Medical Act 1894* amended

24. *Medical Act 1894* amended

The amendments in this Division are to the *Medical Act 1894**.

[* *Reprinted as at 25 February 2000.*

For subsequent amendments see 2000 Index to Legislation of Western Australia, Table 1, p. 230.]

25. **Section 19 amended**

Section 19 is amended by inserting after “apply” —

“

to a nurse practitioner registered under the *Nurses Act 1992* while carrying out the functions of a nurse practitioner, or

”.

26. **Section 21A amended**

Section 21A(2) is amended by inserting after “apply” —

“

to a nurse practitioner registered under the *Nurses Act 1992* while carrying out the functions of a nurse practitioner, or

”.

Division 2 — *Misuse of Drugs Act 1981* amended

27. *Misuse of Drugs Act 1981* amended

The amendments in this Division are to the *Misuse of Drugs Act 1981**.

[* *Reprinted as at 11 January 2002.*]

28. Section 3 amended

Section 3(1) is amended by inserting after the definition of “medical practitioner” the following definition —

“

“**nurse practitioner**” has the meaning given by the
Nurses Act 1992;

”.

29. Section 6 amended

Section 6(2)(b)(i) is amended by inserting after “medical practitioner” —

“ , nurse practitioner ”.

30. Section 8 amended

Section 8(2)(b) is amended by inserting after “medical practitioner” —

“ , nurse practitioner ”.

Division 3 — Pharmacy Act 1964 amended

31. Pharmacy Act 1964 amended

The amendments in this Division are to the *Pharmacy Act 1964**.

[* *Reprinted as at 29 January 1999.*

For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 284.]

32. Section 5 amended

Section 5(1) is amended in the definition of “dispensing” by inserting after “practitioner,” —

“ a nurse practitioner registered under the *Nurses Act 1992*, ”.

33. Section 39 amended

- (1) Section 39(1)(d) is amended by inserting after “dentist” —
“ , nurse practitioner ”.
- (2) After section 39(2) the following subsection is inserted —
“
- (3) In this section —
“**nurse practitioner**” has the meaning given by the
Nurses Act 1992.
”.

Division 4 — Poisons Act 1964 amended

34. Poisons Act 1964 amended

The amendments in this Division are to the *Poisons Act 1964**.

[* *Reprinted as at 22 January 1999.*

*For subsequent amendments see 2001 Index to Legislation of
Western Australia, Table 1, p. 290]*

35. Section 5 amended

Section 5(1) is amended by inserting after the definition of
“needle and syringe programme” the following definition —
“

“**nurse practitioner**” has the meaning given by the
Nurses Act 1992;
”.

36. Section 20 amended

Section 20(2) is amended as follows:

- (a) in paragraph (a) by inserting after “medical practitioners,” —

“

nurse practitioners authorised under section 23(2)(e),

”;

- (b) in paragraph (d) by deleting “medical, dental or veterinary prescription or supply,” and inserting instead —

“

prescription or supply by a medical practitioner, dentist, veterinary surgeon, or nurse practitioner authorised under section 23(2)(e),

”.

37. Section 23 amended

- (1) Section 23(2) is amended as follows:

- (a) after paragraph (c) by deleting “and”;
- (b) after paragraph (d) by deleting the comma and inserting —

“

; and

- (e) a nurse practitioner is authorised to possess, use, supply or prescribe any poison, in accordance with the regulations, while lawfully carrying on the practice of nursing as a nurse practitioner in an area designated by the Commissioner of Health in accordance with the regulations,

”.

- (2) Section 23(3) is amended by inserting after “medical practitioner,” —

“ nurse practitioner, ”.

38. Section 61 amended

Section 61(b) is amended as follows:

- (a) by inserting after “medical practitioner” —

“ , a nurse practitioner ”;

- (b) by inserting after subparagraph (i) the following subparagraph —

“

- (ia) in the case of a nurse practitioner, by the registrar of the Nurses Board of Western Australia constituted under the *Nurses Act 1992*;

”.

39. Section 64 amended

- (1) After section 64(1) the following subsection is inserted —

“

- (1a) A regulation under subsection (2)(q), (r), (s) or (sa) regarding nurse practitioners may be made only on the recommendation of or after consultation with the Commissioner of Health.

”.

- (2) Section 64(2) is amended as follows:

- (a) in paragraph (q) by inserting after “medical practitioner,” —

“

nurse practitioner authorised under section 23(2)(e),

”;

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Division 5 Poisons Regulations 1965 amended

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- (b) in paragraph (r) by inserting after “instruction,” —
“ nurse practitioners, ”;
- (c) in paragraph (s) by inserting after “medical practitioners,” —
“ nurse practitioners, ”;
- (d) in paragraph (sa) by inserting after “medical practitioners,” —
“ nurse practitioners, ”.

Division 5 — Poisons Regulations 1965 amended

40. Poisons Regulations 1965 amended

The amendments in this Division are to the *Poisons Regulations 1965**.

[* *Reprinted as at 12 May 2000.*

For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 4, p. 258 and Gazette 13 August 2002 p. 4181.]

41. Regulation 2 amended

Regulation 2 is amended as follows:

- (a) in the definition of “dispense” by inserting after “a medical practitioner,” —
“ a nurse practitioner, ”;
- (b) in the definition of “supply” by inserting after “by a medical practitioner” —
“ , nurse practitioner ”.

42. Regulation 11A inserted

After regulation 11 the following regulation is inserted —

“

11A. Commissioner of Health may designate areas for the purposes of section 23 of the Act

- (1) The Commissioner of Health may, in writing, designate an area for the purposes of section 23(2)(e) of the Act.
- (2) The Commissioner of Health may amend or withdraw a designation under subregulation (1), in writing, at any time, subject to subregulation (4).
- (3) The Commissioner of Health may not designate an area under subsection (1) until after receiving —
 - (a) written advice with respect to the proposal to designate the area from the officer of the department who is principally responsible for providing advice on matters related to nursing; and
 - (b) clinical protocols for the proposed area approved in writing by —
 - (i) the officer referred to in paragraph (a);
 - (ii) the person holding or acting in the office of Executive Director, Personal Health Services in the department; and
 - (iii) the person holding or acting in the office known as Executive Director, Population Health, or if there is no such office at the relevant time, the office of Executive Director, Public Health and Scientific Support Services in the department.
- (4) The Commissioner of Health may not amend or withdraw a designation under this section until after

receiving written advice with respect to the proposed action from the officer of the department who is principally responsible for providing advice on matters related to nursing.

”.

43. Regulation 21 amended

- (1) Regulation 21(1)(a) and (b) are amended by inserting after “medical practitioner,” in each place where it occurs —

“ nurse practitioner, ”.

- (2) Regulation 21(1)(a)(v) is amended by inserting after “surgery” —

“

, or area designated under section 23(2)(e) of the Act

”.

44. Regulation 36 amended

- (1) Regulation 36(1)(b) is amended by inserting after “medical practitioner,” —

“ nurse practitioner, ”.

- (2) Regulation 36(2) is amended by inserting after “medical practitioner,” in both places where it occurs —

“ nurse practitioner, ”.

45. Regulation 37 amended

- (1) Regulation 37(1)(e) is amended by inserting after “medical practitioner,” —

“ nurse practitioner, ”.

- (2) Regulation 37(2) is amended by inserting after “medical practitioner,” —

“ nurse practitioner, ”.

46. Regulation 38 amended

Regulation 38 is amended by inserting after “medical practitioner,” —

“ nurse practitioner, ”.

47. Regulation 38AA amended

- (1) Regulation 38AA(1) is amended by inserting after “medical practitioner” in both places where it occurs —

“ , nurse practitioner ”.

- (2) Regulation 38AA(2) is amended by inserting after “medical practitioner” —

“ , nurse practitioner ”.

48. Regulation 40 amended

After regulation 40(1)(a) the following paragraph is inserted —

“ (aa) a nurse practitioner; ”.

49. Regulation 64 amended

- (1) Regulation 64(2) is amended by inserting after “medical practitioner” —

“ , nurse practitioner ”.

- (2) Regulation 64(3) is amended by inserting after “medical practitioner” —

“ , nurse practitioner ”.

- (3) Regulation 64(4) is amended by inserting after “medical practitioner” —

“ , nurse practitioner ”.

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Part 3 Consequential amendments

Division 6 Radiation Safety Act 1975 amended

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- (4) Regulation 64(5) is amended by inserting after “medical practitioner” —

“ or nurse practitioner ”.

50. Existing power to amend regulations unaffected

Nothing in this Division prevents any of the *Poisons Regulations 1965* from being amended in accordance with the *Poisons Act 1964*.

Division 6 — Radiation Safety Act 1975 amended

51. Radiation Safety Act 1975 amended

The amendment in this Division is to the *Radiation Safety Act 1975**.

[* Reprinted as at 25 February 2000.]

52. Section 26 amended

After section 26(2) the following subsection is inserted —

“

- (2a) Notwithstanding the provisions of subsection (1), it shall not be necessary for a nurse practitioner as defined in the *Nurses Act 1992* acting in accordance with the relevant provision, if any, of a code of practice issued under section 9(1)(c) of that Act to hold a licence under this Act for the purpose of requesting the holder of a licence to undertake any diagnosis or therapy.

”.

Division 7 — Road Traffic Act 1974 amended

53. Road Traffic Act 1974 amended

The amendment in this Division is to the *Road Traffic Act 1974**.

[* *Reprinted as at 19 October 2001.*

For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 329-30 and Acts Nos. 27 of 2001 and 4, 5 and 7 of 2002 and Gazette 17 May 2002 p. 2558-60.]

54. Section 63 amended

Section 63(7)(a) is amended by inserting after “practitioner” in both places where it occurs —

“

, nurse practitioner registered under the *Nurses Act 1992*,

”.

Part 4 — Savings and transitional

55. Savings and transitional

(1) A person who —

- (a) applies for registration as a nurse practitioner within 6 months of the commencement day; and
- (b) has carried out functions similar to that of a nurse practitioner at a remote area nursing post at any time within the period of 3 years before the commencement day,

may carry out the functions of a nurse practitioner at the remote area nursing post as if the nursing post was a designated area and the applicant was a nurse practitioner until the application is dealt with.

(2) The Board may register a person referred to in subsection (1) as a nurse practitioner despite the fact that the person does not hold an approved educational qualification referred to in section 22A(2)(b) of the *Nurses Act 1992* if that person has acquired such knowledge and practical experience as the Board considers sufficient for the person to competently and efficiently carry out the functions of a nurse practitioner.

(3) In this section —

“**Board**” has the meaning given by the *Nurses Act 1992*;

“**commencement day**” means the day on which this Act comes into operation;

“**designated area**” has the meaning given by the *Nurses Act 1992*;

“**nurse practitioner**” has the meaning given by the *Nurses Act 1992*;

“**remote area nursing post**” has the meaning given by the *Poisons Regulations 1965*.

