Health Legislation Amendment Regulation (No. 1) 2016

Explanatory notes for SL 2016 No. 17

made under the:

Food Act 2006
Health Act 1937
Hospital and Health Boards Act 2011
Private Health Facilities Act 1999
Radiation Safety Act 1999

General Outline

Short title

Health Legislation Amendment Regulation (No. 1) 2016

Authorising law

Section 278 of the *Food Act 2006*
Section 180 of the *Health Act 1937*
Section 282 of the *Hospital and Health Boards Act 2011*
Section 151 of the *Private Health Facilities Act 1999*
Section 215 of the *Radiation Safety Act 1999*

Policy objectives and the reasons for them

The objectives of the *Health Legislation Amendment Regulation (No. 1) 2016* (the Amendment Regulation) are to amend:

- the *Food Regulation 2006* (the Food Regulation) to:
  - prescribe foods that can be sold by a food business without the food business becoming a licensable food business for the purposes of the *Food Act 2006* (the Food Act), and
  - remove the requirement for an application for renewal of an auditor approval to be accompanied by an application fee
- the *Health (Drugs and Poisons) Regulation 1996* (the HDP Regulation) to:
  - clarify the authorisation for Queensland Ambulance Service (QAS) officers to administer vaccines, recognising the different levels of training undertaken by different paramedic levels

  - authorise registered nurses, pharmacists, QAS officers and Indigenous health workers to undertake particular activities under the HDP Regulation, while an influenza epidemic proclamation is in force or during a declared public health emergency, and
  - make minor and technical amendments for the purposes of clarity, consistency and rectifying anomalies
- the *Hospital and Health Boards Regulation 2012* (the Hospital and Health Boards Regulation) and the *Private Health Facilities Regulation 2000* (the Private Health Facilities Regulation) to remove reference to entities that no longer require access to confidential information for the purposes of health service planning activities under the *Hospital and Health Boards Act 2011* (the Hospital and Health Boards Act) and the *Private Health Facilities Act 1999* (the Private Health Facilities Act), and
- the *Radiation Safety Regulation 2010* (the Radiation Safety Regulation) to enable nurse practitioners and registered nurses to request plain film X-rays without the need to work under a diagnostic radiography protocol under the *Radiation Safety Act 1999* (the Radiation Safety Act).

Food Regulation 2006

- **Prescribed foods**

The purposes of the Food Act are to ensure food for sale is safe and suitable for human consumption, to prevent misleading conduct relating to the sale of food, and to apply the *Australia New Zealand Food Standards Code*. These purposes are achieved, in part, by providing for the licensing of particular food businesses and the development and implementation of food safety programs for high risk food businesses.

The Food Act provides that a person cannot carry on a licensable food business unless they hold a licence to carry on the business. The Food Act sets out the types of food businesses that are, and are not, a licensable food business.

The Food Act currently exempts food businesses that sell seeds, spices, dried herbs, tea leaves, coffee beans or ground coffee from the requirement to be a licensable food business (section 48(2)(d)). However, some food businesses, for example health food stores, may also sell bulk flours, cereals and other foods that are not potentially hazardous but which are not currently captured by section 48(2)(d) of the Food Act and therefore require a licence.

Section 48(2)(k) of the Food Act provides that the sale of additional exempt foods may be prescribed under a regulation.

The Food Act also exempts the sale of unpackaged snack foods from the requirement to be a licensable food business. The term *snack food* is defined in the Food Act to include biscuits, cakes, confectionary, dried fruits and potato chips. However, there are a range of similar types of unpackaged snack foods that are not potentially hazardous, such as muffins, chocolate, chocolate bars, popcorn and muesli bars. Section 48(3) of the Food Act provides that other types of not potentially hazardous food may be prescribed as snack food under a regulation.

To ensure the original intent of the Food Act is maintained, it is proposed to prescribe additional non-hazardous foods that can be sold by a food business without the business requiring a licence under the Food Act.

- **Auditor renewal fees**

High risk food businesses are required to develop and implement an accredited food safety program that is audited by an auditor approved under the Food Act. An auditor's functions include advising local government about the accreditation of food safety programs and conducting audits of food safety programs. Auditor approvals may be granted for a maximum of three years.

Each time an application for approval as an auditor is renewed, the auditor must pay both an application fee and an annual approval fee. The renewal application does not undergo the same consideration process as a new application and therefore does not create the same cost burden on the Department of Health. It is considered that the cost of processing a renewal application is captured by the annual approval fee and therefore a separate application fee for renewals is not required.

Health (Drugs and Poisons) Regulation 1996

- **Pandemic plan**

The HDP Regulation currently provides that during a declared public health emergency in relation to an infectious medical condition:

- registered nurses and pharmacists can administer and supply oseltamivir and zanamivir under a drug therapy protocol (DTP), and
- an ambulance officer who is a paramedic 1, 2, 3, 3 (Extended Care Paramedic (ECP)), or 4 is authorised to obtain, possess, administer or supply oseltamivir or zanamivir or a vaccine for the infectious medical condition under a DTP.

The HDP Regulation also provides that Indigenous health workers, while practising in an Aboriginal or Torres Strait Islander community in an isolated practice area in a specified Hospital and Health Service, are authorised:

- to obtain and possess a restricted drug, or
- administer or supply a restricted drug under a DTP on the oral or written instruction of a doctor, nurse practitioner or physician's assistant.

A *public health emergency* is defined in the *Public Health Act 2005* (the Public Health Act) as an event or series of events that may contribute to serious adverse effects on the health of persons in Queensland. The Public Health Act provides that if the Minister is satisfied that there is a public health emergency, the Minister may declare a public health emergency to prevent or minimise serious adverse effects on human health.

Previous flu seasons have shown that health professional endorsements are limited and may not be sufficient to enable a rapid response to an emerging flu epidemic or a new strain of flu in Queensland. Early intervention and a more flexible response to the threat of a flu epidemic can potentially reduce the impact of such an event on both the community and health care services.

In addition, there may be circumstances that do not meet the requirements of a public health emergency, but still require a prompt and flexible response in order to reduce the potentially devastating impacts in the case of a pandemic influenza situation. Under the *Quarantine Act 1908* (Cwlth), a proclamation can declare the existence of an influenza epidemic or the danger of an influenza epidemic.

Hospital and Health Boards Regulation 2012* and the *Private Health Facilities Regulation 2000

- **Prescribed entities authorised to receive confidential information**

In 2012, the Pre-qualified Health Service Planning and Functional Design Panel (the panel) was appointed. The panel removed the need for a tender process each time health service planning or functional design consultancies were required.

The Hospital and Health Boards Act and the Private Health Facilities Act authorise the disclosure of confidential information to entities prescribed under the Hospital and Health Boards Regulation and the Private Health Facilities Regulation if the disclosure is for evaluating, managing, monitoring or planning health services. These regulations currently prescribe eight entities, seven of which are part of the panel. The eighth entity, Hardes & Associates Pty Ltd, is not a member of the panel.

The panel expired in December 2015. Accordingly, the seven entities that formed the panel no longer require access to confidential information for the purposes of performing health service planning activities.

Radiation Safety Regulation 2010

- **Diagnostic radiography protocol**

The Radiation Safety Regulation authorises registered nurses and nurse practitioners to request plain film diagnostic radiography (X-rays) under a diagnostic radiography protocol (DRP).

A nurse practitioner is a registered nurse who has met the practice standards, qualifications and extensive clinical experience for endorsement by the Nursing and Midwifery Board of Australia under the *Health Practitioner Regulation National Law Act 2009*. Registered nurses must maintain professional competence through ongoing professional development. Registered nurses are considered to have the requisite knowledge and skills to assess the risk of radiation exposure, inherent with X-rays, against clinical need.

Under the Radiation Safety Regulation, registered nurses, including nurse practitioners, must request X-rays under a DRP. The current DRP obligations impose significant administrative obligations for registered nurses and nurse practitioners, including the need to undertake refresher training and assessment in radiation protection and diagnostic imaging as approved by the chief executive. It is considered these obligations are not necessary in light of the extensive training, qualifications and governance arrangements demanded of registered nurses and nurse practitioners to perform their role.

Achievement of policy objectives

Food Regulation 2006

- **Prescribed foods**

The amendments to the Food Regulation are designed to ensure the Food Act treats the sale of foods that are not potentially hazardous consistently. The Amendment Regulation amends the Food Regulation to prescribe additional foods for the purposes of section 48(2)(k) of the Food Act. The prescribed list includes food such as: couscous, pasta, noodles, flour, coconut,

cocoa, sugar, edible oils, and spreads such as peanut butter and jam. These foods are only prescribed if they are in a form that makes the item not potentially hazardous food. For example, the prescribed list of food includes pasta. While dried pasta is prescribed, cooked pasta would not be prescribed as it is in a form that is potentially hazardous food.

The Amendment Regulation also amends the Food Regulation to prescribe additional foods that are snack foods for the purposes of the definition in section 48(3) of the Food Act. The prescribed list of snack foods includes foods such as: muffins, doughnuts, popcorn, crackers, pretzels, meat jerky, and muesli bars.

The effect of these amendments is that the prescribed types of food can be sold by a food business without the food business being a licensable food business.

- **Auditor renewal fees**

As the cost of processing a renewal application is currently captured by the annual approval fee, the Amendment Regulation amends the Food Regulation to remove the requirement for applications made under section 138 of the Food Act to be accompanied by an application fee.

The Food Regulation will therefore provide that:

- for a person applying for an approval as an auditor under section 128 of the Food Act, the application is to be accompanied by the application fee and the approval fee for each year of the approval (as is currently required), and
- for a person applying for renewal of an auditor's approval under section 138 of the Food Act, the application must be accompanied by the approval fee for each year of the approval only.

Removing the renewal application fee will reduce the financial burden on the existing approved auditors subject to this provision.

Health (Drugs and Poisons) Regulation 1996

- **Pandemic plan**

To enable a rapid response to an emerging flu epidemic or a new strain of flu in Queensland, the Amendment Regulation amends the HDP Regulation to provide that during an influenza epidemic proclamation or a declared public health emergency relating to an infectious medical condition:

- a registered nurse can obtain, administer or supply a restricted drug under a DTP
- a pharmacist is authorised to administer or supply a restricted drug under a DTP
- an ambulance officer who is a paramedic 1, 2, 3, 3 (ECP), or 4 is authorised to obtain, possess, administer or supply a restricted drug under a DTP
- an ambulance officer who is a paramedic 3, 3 (ECP) or 4 is authorised to obtain, possess or administer a vaccine under a DTP, and
- an Indigenous health worker, while practising in an Aboriginal or Torres Strait Islander community in an isolated practice area in a specified Hospital and Health Service, is authorised to administer or supply a restricted drug under a DTP.

The amendments relating to QAS officers change references from 'oseltamivir or zanamivir' to a 'restricted drug'. This reflects that a future influenza epidemic might not respond to

oseltamivir or zanamivir and instead another restricted drug might be more appropriate. This allows for a more flexible and appropriate response to the influenza epidemic.

The Amendment Regulation also recognises the different level of training undertaken by paramedics 1 and 2, as compared to paramedics 3, 3(ECP) and 4. The vaccine for influenza can only be administered by paramedics 3, 3(ECP) and 4 as they have undertaken training to administer a vaccine by injection.

The Amendment Regulation also makes a number of minor and technical amendments to the HDP Regulation to clarify the DTP that is relevant to particular activities, to remove a number of anomalies relating to the activities particular health professionals can undertake and make drafting changes to improve the readability of the HDP Regulation.

Hospital and Health Boards Regulation 2012* and the *Private Health Facilities Regulation 2000

- **Prescribed entities authorised to receive confidential information**

The Amendment Regulation removes the following seven entities from the Hospital and Health Boards Regulation and the Private Health Facilities Regulation:

- Carramar Consulting Pty Ltd
- Deloitte Touche Tohmatsu
- Aspex Consulting Pty Ltd
- Capital Insight Pty Ltd
- Thinc Health Australia Pty Ltd
- KPMG, and
- PricewaterhouseCoopers.

The effect of this amendment is that the entities are no longer authorised to receive confidential information under section 150(b) of the Hospital and Health Boards Act and section 147(4)(h)(i) of the Private Health Facilities Act.

Radiation Safety Regulation 2010

- **Diagnostic radiography protocol**

The Amendment Regulation amends the Radiation Safety Regulation to:

- remove the requirement for nurse practitioners to work under a DRP, and
- remove the requirements for registered nurses to successfully complete a training course and to work under a DRP.

This amendment will allow nurse practitioners and registered nurses to request X-rays without the need for a protocol arrangement. The amendment will result in significant advantages enhancing operational efficiency for community healthcare services.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the policy objectives of the Food Act, the *Health Act 1937*, the Hospital and Health Boards Act, the Private Health Facilities Act and the Radiation Safety Act.

Inconsistency with policy objectives of other legislation

No inconsistencies with the policy objectives of other legislation have been identified.

Alternative ways of achieving policy objectives

The Amendment Regulation is the only effective means of achieving the policy objectives.

Benefits and costs of implementation

The Amendment Regulation is not expected to impose significant costs on the persons or organisations to which it applies. The amendments to the Food Regulation will reduce the costs of compliance for relevant food businesses and auditors.

Consistency with fundamental legislative principles

Sub-delegation of power

The Amendment Regulation amends provisions of the HDP Regulation that authorise action to be taken by an endorsed person under a DTP. This includes amendments to the endorsements for indigenous health workers (sections 59A, 164A and 252B), midwives (sections 62 and 167), orthoptists (sections 170A and 256AA), pharmacists (sections 20B, 64 and 171), QAS officers (sections 66, 174 and 262), and registered nurses (sections 67, 175 and 263).

Allowing external documents that are not subject to Parliamentary scrutiny to stipulate the circumstances under which a health practitioner may use various substances, may be seen to breach section 4(2)(b) of the *Legislative Standards Act 1992*, which requires legislation to have sufficient regard to the institution of Parliament.

The majority of the DTPs referred to in the Amendment Regulation are already prescribed in the HDP Regulation. The purpose of the amendments is to provide greater clarity around the names of the relevant DTPs. The Amendment Regulation prescribes one additional DTP—the communicable diseases DTP. All DTPs referred to in the HDP Regulation are published on the Department of Health's website at www.health.qld.gov.au.

DTPs support the provision of health care in Queensland, setting out the circumstances and conditions under which certain health practitioners may use stated controlled or restricted drugs or poisons, based on current best clinical practice. DTPs take into account the qualifications, training and clinical experience of the relevant health practitioner to safely and appropriately use the specified drugs and poisons.

DTPs are developed and revised through a process of stakeholder consultation and multidisciplinary clinical governance that covers the care of patient groups that would be treated under each DTP. In developing each DTP, consideration is given to the health care needs of specific patient populations, how this care can be provided in a timely and safe manner, and requirements for medical advice, referral or transfer to higher levels of care.

DTPs are generally reviewed every two years. This involves a robust review of clinical guidelines, following procedures recommended in the National Health and Medical Research

Council Guidelines on Clinical Guideline Development, as well as feedback and input from expert clinicians from public health services, and clinical networks.

It is considered that the rigour surrounding the development of DTPs, coupled with their use in ensuring Queenslanders receive health care based on best clinical practice, justifies the need to sub-delegate by referring to external documents in the HDP Regulation.

Consultation

The Department of Health consulted with the following stakeholders about relevant amendments to the HDP Regulation:

- Primary Health Networks
- Hospital and Health Services
- Queensland Nurses' Union
- Queensland Aboriginal and Islander Health Council
- Royal Flying Doctor Service
- Pharmacy Guild of Australia, and
- Pharmaceutical Society Australia (Queensland Branch).

The amendments were generally supported and feedback received has been incorporated into the Amendment Regulation where appropriate. QAS is supportive of the proposed amendments relating to the administration of vaccines.

No other external consultation was undertaken as the remaining amendments are minor and technical in nature, or streamline and clarify the operation of existing provisions in the legislation. Some of the amendments respond to stakeholder feedback.

Notes on provisions

Part 1 Preliminary

1 Short title

Clause 1 provides that the short title of the Amendment Regulation will be the Health Legislation Amendment Regulation (No. 1) 2016.

Part 2 Amendment of Food Regulation 2006

2 Regulation amended

Clause 2 specifies that part 2 amends the Food Regulation.

3 Replacement of s 3 (Sale of prescribed food—Act, s 48)

Clause 3 provides that part 1 of schedule 1AA prescribes foods for the purposes of section 48(2)(k) of the Food Act. However, foods listed in part 1 of schedule 1AA are not prescribed if they are in a form that makes them a potentially hazardous food. For example, while pasta is prescribed in part 1 of schedule 1AA, pasta is not prescribed if it is cooked, as cooked pasta is a potentially hazardous food.

Clause 3 also provides that part 2 of schedule 1AA lists additional foods that are *snack foods* for the purposes of the definition in section 48(3) of the Food Act.

The effect of these amendments is that the sale of these prescribed low risk foods in schedule 1AA does not require a food business to hold a licence.

4 Amendment of s 7 (Fees for applications)

Clause 4 amends section 7(1) of the Food Regulation to remove the requirement for a renewal application made under section 138 of the Act to be accompanied by an application fee.

Section 7(1) of the Food Regulation, as amended, will provide that:

- an application for an approval as an auditor under section 128 of the Food Act must be accompanied by the application fee and the annual fee for each year of the approval, and
- an application for renewal of an auditor's approval under section 138 of the Food Act must be accompanied by the annual fee for each year of the approval.

5 Insertion of new sch 1AA

Clause 5 inserts new schedule 1AA, which prescribes types of food that a food business can sell, if the food is not potentially hazardous food, without being required to hold a licence. The prescribed foods includes items such as couscous, cocoa, legumes, pasta, oats, and preparations for spreading on bread, such as honey, jam, marmalade and peanut butter.

The prescribed snack foods include items such as chocolate, doughnuts, friands, meat jerky, muesli bars and pretzels.

Part 3 Amendment of Health (Drugs and Poisons) Regulation 1996

6 Regulation amended

Clause 6 specifies that part 3 amends the HDP Regulation.

7 Amendment of s 20B (Who may apply for an operating approval)

Clause 7 amends section 20B to clarify that the reference to a 'drug therapy protocol' in this section refers to the pharmacist opioid DTP.

The *pharmacist opioid DTP* means the document called *Drug Therapy Protocol – Pharmacist: Opioid Treatment Program* published on the Department of Health's website. The pharmacist opioid DTP states the circumstances and conditions under which a pharmacist is authorised to administer a controlled drug listed in the document.

8 Amendment of s 59A (Indigenous health workers)

Clause 8 amends section 59A to clarify that the reference to 'a drug therapy protocol' means 'the indigenous health worker isolated practice area DTP'.

The *indigenous health worker isolated practice area DTP* means the document called *Drug Therapy Protocol – Indigenous Health Worker Isolated Practice Area*, published on the Department of Health's website. The indigenous health worker isolated practice area DTP states the circumstances and conditions under which an indigenous health worker is authorised to administer or supply a controlled drug or poison listed in the document.

9 Amendment of s 62 (Midwives)

Clause 9 amends section 62(d)(ii) to clarify that the reference to 'a drug therapy protocol' means the 'the midwives DTP'.

The *midwives DTP* means the document called *Drug Therapy Protocol – Midwives*, published on the Department of Health's website. For the purposes of section 62, the midwives DTP states the circumstances and conditions under which a midwife is authorised to administer or supply a controlled drug listed in the document to the extent necessary to practice midwifery.

10 Amendment of s 64 (Pharmacists)

Clause 10 amends section 64(1)(f) to clarify that the reference to 'a drug therapy protocol' means the 'the pharmacist opioid DTP'.

The *pharmacist opioid DTP* means the document called *Drug Therapy Protocol – Pharmacist Opioid Treatment Program*, published on the Department of Health's website. For the purposes of section 64, the pharmacist opioid DTP states the circumstances and conditions under which a pharmacist is authorised to administer or supply a controlled drug listed in the document.

11 Amendment of s 66 (Queensland Ambulance Service)

Clause 11 amends section 66(4)(c)(ii) to clarify that the reference to 'a drug therapy protocol' means 'the isolated practice area paramedic DTP'.

The *isolated practice area paramedic DTP* means the document called *Drug Therapy Protocol – Queensland Ambulance Service Isolated Practice Area Paramedic*, published on the Department of Health's website. For the purposes of section 66, the isolated practice area paramedic DTP states the circumstances and conditions under which a QAS isolated practice paramedic is authorised to administer or supply a controlled drug listed in the document as part of their ambulance duties.

12 Amendment of s 67 (Registered nurses)

Clause 12 amends section 67(2) to refer to a 'rural and isolated practice area endorsed nurse', as opposed to a 'rural and isolated practice endorsed nurse'. The amendment ensures the phrase 'rural and isolated practice area endorsed nurse' reflects the language used in the DTP called the *Drug Therapy – Rural and Isolated Practice Area Endorsed Nurse.*

Clause 12 also clarifies that the reference to 'a drug therapy protocol' in section 67(2)(c) means 'the rural and isolated practice area endorsed nurse DTP'.

The *rural and isolated practice area endorsed nurse DTP* means the document called *Drug Therapy Protocol – Rural and Isolated Practice Area Endorsed Nurse*, published on the Department of Health's website. For the purposes of section 67, the rural and isolated practice area endorsed nurse DTP states the circumstances and conditions under which a rural and isolated practice area endorsed nurse is authorised to administer or supply controlled drugs listed in the document.

The clause also clarifies that the reference to 'a drug therapy protocol' in section 67(4)(b) means 'the nurse practitioner DTP'.

The *nurse practitioner DTP* means the document called *Drug Therapy Protocol – Nurse Practitioners*, published on the Department of Health's website. For the purposes of section 67, the nurse practitioner DTP states the circumstances and conditions under which a nurse practitioner is authorised to prescribe, give a written or oral instruction to administer or supply, or administer or supply scheduled medicines to the extent necessary to practice as a nurse practitioner.

13 Amendment of s 84 (Dealing with paper prescriptions and certain written instructions)

Clause 13 amends the heading for section 84 to replace the reference to 'certain' written instructions, with a reference to 'particular' written instructions. This amendment reflects current drafting practices.

Clause 13 also changes a reference from 'or when' to 'and when' to ensure that information about both the quantity of the drug and when it has been dispensed must be provided.

14 Amendment of s 87 (Entries to be made in controlled drugs record)

Clause 14 amends section 87(2)(a) to clarify that the reference to 'a drug therapy protocol' means 'the pharmacist opioid DTP'.

The *pharmacist opioid DTP* means the document called *Drug Therapy Protocol – Pharmacist Opioid Treatment Program*, published on the Department of Health's website. For the purposes of section 87, the pharmacist opioid DTP states the circumstances and

conditions under which a pharmacist is authorised to administer or supply a controlled drug listed in the document.

15 Amendment of s 89 (Authorised persons to obtain controlled drugs on purchase order)

Clause 15 amends section 89(3) to provide that a purchase order placed by a dentist, doctor, midwife, nurse practitioner, pharmacist, or veterinary surgeon must be signed by the individual. Previously, this requirement only applied to dentists, doctors, pharmacists or veterinary surgeons and did not apply to midwives (who are authorised to obtain a controlled drug to the extent necessary to practice midwifery under section 62) or nurse practitioners (who are authorised to obtain a controlled drug in particular circumstances under section 67).

16 Amendment of s 93 (Dealing with purchase orders)

Clause 16 amends section 93(2)(d) which sets out that if a dentist, doctor or veterinary surgeon sells a controlled drugs on a purchase order, they must send the chief executive a copy of the purchase order. The amended section 93(2)(d) will now also apply to orders from midwives and nurse practitioners.

17 Amendment of s 109 (Records of controlled drugs supplied to be kept)

Clause 17 amends section 109(4)(e) to specify that an entry in a controlled drug record book must also include the name and address of the doctor, nurse practitioner or physician's assistant who gave an instruction about a controlled drug. This is to ensure consistency with persons who can give an instruction to supply a controlled drug in a hospital.

18 Amendment of s 112 (Records—ambulance officers, indigenous health workers, midwives and rural and isolated practice endorsed nurses)

Clause 18 amends the title of section 112 and section 112(1), (2) and (3) to refer to a 'rural and isolated practice area endorsed nurse', as opposed to a 'rural and isolated practice endorsed nurse'. The amendment ensures the phrase 'rural and isolated practice area endorsed nurse' reflects the language used in the DTP called the *Drug Therapy – Rural and Isolated Practice Area Endorsed Nurse*.

Clause 18 also amends section 112(3)(e) which requires an ambulance officer, indigenous health worker, midwife or rural and isolated practice endorsed nurse who obtains a controlled drug to keep a record book. The section prescribes how the entries must be recorded and the information that the entry must contain. Currently, if a controlled drug is administered to a person, the ambulance officer, indigenous health worker, midwife or rural and isolated practice endorsed nurse must ensure the entry in the record book includes the name of the doctor authorising the drug's administration.

This clause amends section 112(3)(e) to provide that if the controlled drug is administered to a person, other than by a rural and isolated practice area nurse or a midwife under a DTP, the person administering the controlled drug (the ambulance officer or indigenous health worker) must record the name of the doctor, nurse practitioner, or physician's assistant authorising the administration of the drug in the controlled drug record book.

This change recognises that nurse practitioners and physician's assistants are also able to authorise the administration of controlled drugs. The amendment acknowledges that there may be some situations where a rural and isolated practice area endorsed nurse or a midwife

is authorised to administer some controlled drugs under a DTP, without the authorisation of a doctor or nurse practitioner. In those instances, the rural and isolated practice area endorsed nurse or midwife would unable to comply with the current requirement in section 112(3)(e) to record the doctor's name.

19 Amendment of s 113 (Record keeping for certain nursing practices and Queensland Ambulance Service stations)

Clause 19 amends section 113(1)(a) to refer to a 'rural and isolated practice area endorsed nurse', as opposed to a 'rural and isolated practice endorsed nurse'. The amendment ensures the phrase 'rural and isolated practice area endorsed nurse' reflects the language used in the DTP called the *Drug Therapy – Rural and Isolated Practice Area Endorsed Nurse*.

The title of section 113 is amended to remove the reference to 'certain' and replace it with a reference to 'particular', to reflect modern drafting practices.

20 Amendment of s 119 (Storage of controlled drugs generally)

Clause 20 amends section 119(4) and (5) to clarify that a nurse practitioner may possess a controlled drug at a place other than the place where the nurse practitioner practices their profession. Where they do so, the nurse practitioner must keep the drug in a secure place under his or her control. Previously, only ambulance officers, doctors, rural and isolated practice endorsed nurses and veterinary surgeons were authorised to possess controlled drugs at places other than where they practiced their respective professions.

Clause 20 also amends the reference to a 'rural and isolated practice area endorsed nurse', as opposed to a 'rural and isolated practice endorsed nurse'. The amendment ensures the phrase 'rural and isolated practice area endorsed nurse' is used consistently in the HDP Regulation and other relevant documents.

21 Replacement of s 164A (Indigenous health workers)

Clause 21 replaces section 164A to provide that during an influenza epidemic proclamation or a declared public health emergency relating to an infectious medical condition, an Indigenous health worker, while practising in an Aboriginal or Torres Strait Islander community in an isolated practice area in a specified Hospital and Health Service is authorised to administer or supply a restricted drug under a pandemic influenza program DTP or a communicable diseases DTP respectively.

22 Amendment of s 167 (Midwives)

Clause 22 clarifies that the reference to 'a drug therapy protocol' means 'the midwives DTP'.

The *midwives DTP* means the document called *Drug Therapy Protocol – Midwives*, published on the Department of Health's website. For the purposes of section 167, the midwives DTP states the circumstances and conditions under which a midwife is authorised to administer or supply a restricted drug listed in the document to the extent necessary to practice midwifery.

23 Amendment of s 170A (Orthoptists)

Clause 23 amends section 170A to clarify that the reference to 'a drug therapy protocol' means 'the orthoptist DTP'.

The *orthoptist DTP* means the document called *Drug Therapy Protocol – Orthoptist*, published on the Department of Health's website. The orthoptist DTP states the circumstances and conditions under which an orthoptist is authorised to administer a restricted drug or poison listed in the document.

24 Amendment of s 171 (Pharmacists)

Clause 24 inserts a note into section 171(1) to clarify an approved pharmacist under the *National Health Act 1953* (Cwlth) should also refer to the *National Health (Continued Dispensing) Determination 2012* (Cwlth). The *National Health (Continued Dispensing) Determination 2012* (Cwlth) specifies the pharmaceutical benefits that may be supplied, and the conditions that must be satisfied when those pharmaceutical benefits are supplied, by an approved pharmacist without a current prescription, but on the basis of a previous prescription from a Pharmaceutical Benefit Scheme prescriber.

Clause 24 also amends section 171(3) to provide that during an influenza epidemic proclamation or a declared public health emergency relating to an infectious medical condition, a pharmacist is authorised to administer or supply a restricted drug under a pandemic influenza program DTP or a communicable diseases DTP respectively.

25 Amendment of s 174 (Queensland Ambulance Service)

Clause 25 amends section 174 to clarify that the reference to 'a drug therapy protocol' in section 174(2A)(c)(ii) means 'the isolated practice area paramedic DTP'.

The *isolated practice area paramedic DTP* means the document called *Drug Therapy Protocol – Queensland Ambulance Service Isolated Practice Area Paramedic*, published on the Department of Health's website. For the purposes of section 174, the isolated practice area paramedic DTP states the circumstances and conditions under which a QAS isolated practice paramedic is authorised to administer or supply a restricted drug listed in the document as part of their ambulance duties.

Clause 25 also amends section 174 to provide that during an influenza epidemic proclamation or a declared public health emergency relating to an infectious medical condition, an ambulance officer who is a paramedic 1, 2, 3, 3 (ECP), or 4 is authorised to obtain, possess, administer or supply a restricted drug under a pandemic influenza program DTP or a communicable diseases DTP respectively.

Clause 25 also provides that during an influenza epidemic proclamation or a declared public health emergency relating to an infectious medical condition, an ambulance officer who is a paramedic 3, 3 (ECP) or 4 is authorised to obtain, possess or administer a vaccine under a pandemic influenza program DTP or a communicable diseases DTP respectively.

Previously, QAS officers (paramedics 1, 2, 3, 3 (ECP) and 4) were authorised to obtain, possess, administer or supply oseltamivir or zanamivir, or a vaccine for the infectious medical condition, during a declared public health emergency. These amendments recognise the different levels of training undertaken by paramedics 1 and 2, as compared to paramedics 3, 3 (ECP) and 4.

26 Replacement of s 175 (Registered nurses)

Clause 26 clarifies that a reference to 'a drug therapy protocol' in section 175(2) means the 'rural and isolated practice area endorsed nurse DTP'.

The *rural and isolated practice area endorsed nurse DTP* means the document called *Drug Therapy Protocol – Rural and Isolated Practice Area Endorsed Nurse*, published on the Department of Health's website. For the purposes of section 175, the rural and isolated practice area endorsed nurse DTP states the circumstances and conditions under which a rural and isolated practice area endorsed nurse is authorised to administer or supply a restricted drug listed in the document.

Clause 26 also clarifies that a reference to 'a drug therapy protocol; in section 175(4) means 'the immunisation program nurse DTP'.

The *immunisation program nurse DTP* means the document called *Drug Therapy Protocol – Immunisation Program Nurse*, published on the Department of Health's website. The immunisation program nurse DTP states the circumstances and conditions under which an immunisation program nurse, practising under an immunisation program, is authorised to administer a vaccine or other restricted drug listed in the document.

Clause 26 also clarifies that a reference to 'a drug therapy protocol' in section 175(5) means 'the sexual health program nurse DTP'.

The *sexual health program nurse DTP* means the document called *Drug Therapy Protocol – Sexual Health Program Nurse*, published on the Department of Health's website. For the purposes of section 175, the sexual health program nurse DTP states the circumstances and conditions under which a sexual health program nurse is authorised to administer or supply a restricted drug listed in the document.

New section 175(8)(b) refers to 'the nurse practitioner DTP'. The nurse practitioner DTP means the document called *Drug Therapy Protocol – Nurse Practitioners*, published on the Department of Health's website.

Clause 26 also provides that during an influenza epidemic proclamation or a declared public health emergency relating to an infectious medical condition, a registered nurse can obtain, administer, or supply a restricted drug under a pandemic influenza program DTP or a communicable diseases DTP respectively.

New section 175 provides clarity in relation to what a nurse practitioner or registered nurse is authorised to do.

27 Amendment of s 200 (Authorised persons to obtain restricted drugs on purchase order)

Clause 27 amends section 200(3) to include midwives and nurse practitioners as persons who are authorised to obtain restricted drugs on a purchase order, in addition to dentists, doctors, endorsed podiatrists, optometrists, pharmacists, podiatrist and veterinary surgeons. This amendment means that a purchase order placed for a restricted drug by a midwife or nurse practitioner must be signed by the midwife or nurse practitioner.

28 Amendment of s 207 (Records of restricted drugs supplied to be kept)

Clause 28 amends section 207 to amend the reference to section 175(2A) to refer instead to 175(3), as a result of the replacement of section 175 above.

Clause 28 also amends section 207 to refer to a 'rural and isolated practice area endorsed nurse', as opposed to a 'rural and isolated practice endorsed nurse'. The amendment ensures the phrase 'rural and isolated practice area endorsed nurse' is used consistently in the HDP Regulation and other relevant documents.

29 Amendment of s 211 (Storage of restricted drugs generally)

Clause 29 amends section 211 to refer to a 'rural and isolated practice area endorsed nurse', as opposed to a 'rural and isolated practice endorsed nurse'. The amendment ensures the phrase 'rural and isolated practice area endorsed nurse' is consistent throughout the HDP Regulation and other relevant documents.

30 Amendment of s 235 (Wholesale and retail sales by manufacturers and wholesalers)

Clause 30 amends section 235 to refer to a 'rural and isolated practice area endorsed nurse', as opposed to a 'rural and isolated practice endorsed nurse'. The amendment ensures the phrase 'rural and isolated practice area endorsed nurse' is used consistently in the HDP Regulation and other relevant documents.

Currently under section 235, a poison manufacturer or wholesaler must not sell an S2, S3 or S7 poison by wholesale to someone who is not authorised to sell the poison by retail. However, this prohibition does not apply to a poison wholesaler selling an S2 or S3 poison to a dentist, doctor, endorsed podiatrist, pharmacist or veterinary surgeon.

Clause 30 amends this exemption to also include the sale of S2 or S3 poisons to nurse practitioners. The effect of this amendment is that a poison wholesaler will not commit an offence where they sell an S2 or S3 poison to a nurse practitioner.

31 Amendment of s 243 (Endorsement needed for S2, S3 or S7 poison)

Clause 31 amends section 243(4) to provide that a person can give an oral or written instruction for a poison. Previously, section 243(4) only referred to a person writing a written instruction, and did not refer to the giving of oral instructions.

32 Amendment of s 252B (Indigenous health workers)

Clause 32 amends section 252B to clarify that the references to 'a drug therapy protocol' means 'the indigenous health worker isolated practice area DTP'.

The *indigenous health worker isolated practice area DTP* means the document called *Drug Therapy Protocol – Indigenous Health Worker Isolated Practice Area*, published on the Department of Health's website. The indigenous health worker isolated practice area DTP states the circumstances and conditions under which an indigenous health worker is authorised to administer or supply a controlled drug or poison listed in the document.

33 Amendment of s 256AA (Orthoptists)

Clause 33 amends section 256AA to clarify that the reference to 'a drug therapy protocol' means 'the orthoptist DTP'.

The *orthoptist DTP* means the document called *Drug Therapy Protocol – Orthoptist*, published on the Department of Health's website. The orthoptist DTP states the

circumstances and conditions under which an orthoptist is authorised to administer a restricted drug or poison listed in the document.

34 Amendment of s 262 (Queensland Ambulance Service)

Clause 34 amends section 262 to clarify that a reference to 'a drug therapy protocol' means 'the isolated practice area paramedic DTP'.

The *isolated practice area paramedic DTP* means the document called *Drug Therapy Protocol – Queensland Ambulance Service Isolated Practice Area Paramedic*, published on the Department of Health's website. For the purposes of section 262, the isolated practice area paramedic DTP states the circumstances and conditions under which a QAS isolated practice area paramedic is authorised to administer or supply a poison listed in the document as part of their ambulance duties.

35 Amendment of s 263 (Registered nurses)

Clause 35 amends section 263 to refer to a 'rural and isolated practice area endorsed nurse', as opposed to a 'rural and isolated practice endorsed nurse'. The amendment ensures the phrase 'rural and isolated practice area endorsed nurse' is used consistently in the HDP Regulation and other relevant documents.

Clause 35 also clarifies that the reference to 'a drug therapy protocol' in section 263(4) means 'the sexual health program nurse DTP'.

The *sexual health program nurse DTP* means the document called *Drug Therapy Protocol – Sexual Health Program Nurse*, published on the Department of Health's website. For the purposes of section 263, the sexual health program nurse DTP states the circumstances and conditions under which a sexual health program nurse is authorised to administer or supply a poison drug listed in the document.

Clause 35 also clarifies that the reference to 'a drug therapy protocol' in section 263(5)(b) means 'the nurse practitioner DTP'. The *nurse practitioner DTP* means the document called *Drug Therapy Protocol – Nurse Practitioners*, published on the Department of Health's website.

36 Amendment of appendix 1 (Provisions not applying to morphine or opium in compounded preparations)

Clause 36 amends the heading for appendix 1 to remove the reference to 'certain' and replace it with a reference to 'particular', to reflect modern drafting practices.

37 Amendment of appendix 3 (Who must sign certain purchase orders for controlled or restricted drugs)

Clause 37 amends the heading for appendix 3 to remove the reference to 'certain' and replace it with a reference to 'particular', to reflect modern drafting practices.

38 Amendment of appendix 9 (Dictionary)

Clause 38 amends the dictionary in appendix 9 to include new definitions, including definitions for the range of DTPs referred to in the HDP Regulation.

Communicable diseases DTP means the document called *Drug Therapy Protocol – Communicable Diseases Program*.

Indigenous health worker isolated practice area DTP means the document called *Drug Therapy Protocol – Indigenous Health Worker Isolated Practice Area*.

Influenza epidemic proclamation means a proclamation made under section 2B of the *Quarantine Act 1908* (Cwlth).

Isolated practice area paramedic DTP means the document called *Drug Therapy Protocol – Isolated Practice Area Paramedic*.

Midwives DTP means the document called *Drug Therapy Protocol – Midwives*.

Nurse practitioner DTP means the document called the *Drug Therapy Protocol – Nurse Practitioner*.

Orthoptist DTP means the document called *Drug Therapy Protocol – Orthoptist*.

Pandemic influenza program DTP means the document called *Drug Therapy Protocol – Pandemic Influenza Program*.

Pharmacist opioid DTP means the document called *Drug Therapy Protocol – Pharmacist Opioid Treatment Program*.

Private hospital refers to a private hospital as defined in section 9 of the Private Health Facilities Act.

Rural and isolated practice area endorsed nurse DTP means the document called *Drug Therapy Protocol—Rural and Isolated Practice Area Endorsed Nurse*.

Sexual health program nurse DTP means the document called *Drug Therapy Protocol—Sexual Health Program Nurse*.

Clause 38 also amends the definition of *dispensed medicine* to include a medicine that is, or contains, a controlled or restricted drug or a poison that is prepared for supply by a pharmacist for human or animal use.

A note is included under the definition of *drug therapy protocol* to state that copies of the drug therapy protocols published by the Department of Health are available on the Department's website at www.health.qld.gov.au.

The term *rural and isolated practice endorsed nurse* is changed to *rural and isolated practice <u>area</u> endorsed nurse* to ensure consistent language is used throughout the HDR Regulation.

Part 4 Amendment of Hospital and Health Boards Regulation 2012

39 Regulation amended

Clause 39 specifies that part 4 amends the Hospital and Health Boards Regulation.

40 Amendment of s 35 (Disclosure of confidential information for purposes relating to health services)

Clause 40 amends section 35(1)(b) to remove reference to seven entities that no longer require access to confidential information for purposes relating to health services.

Clause 40 ensures that Hardes & Associates Pty Ltd is still a prescribed entity under section 150(b) of the Hospital and Health Boards Act.

Part 5 Amendment of Private Health Facilities Regulation 2000

41 Regulation amended

Clause 41 specifies that part 5 amends the Private Health Facilities Regulation.

42 Amendment of s 8 (Giving of information—Act, s 147(4))

Clause 42 amends section 8(2) to remove reference to seven entities that no longer require access to confidential information for purposes relating to health services.

Clause 42 ensures that Hardes & Associates Pty Ltd is still a prescribed entity under section 147(4) of the Private Health Facilities Act.

Part 6 Amendment of Radiation Safety Regulation 2010

43 Regulation amended

Clause 43 specifies that part 6 amends the Radiation Safety Regulation.

44 Amendment of sch 6 (Authorised persons)

Clause 44 amends schedule 6, part 1 item 3, column 2, paragraph (b) to remove the requirement for a nurse practitioner to request plain film diagnostic radiography under a diagnostic radiography protocol.

Clause 44 also amends schedule 6, part 1, item 3, column 2, paragraph (c) to remove the requirements for a registered nurse to have successfully completed a course of training approved by the chief executive, and to have successfully passed an assessment of practical competence approved by the chief executive. In addition, the clause removes the requirement for registered nurses to request plain film diagnostic radiography under a diagnostic radiography protocol.

The effect of this amendment is that nurse practitioners and registered nurses will be authorised to request plain film diagnostic radiography without the need for a protocol arrangement.