Health Legislation (Scope of Practice) Amendment Regulation 2018

Explanatory notes for SL 2018 No. 174

made under the

Health Act 1937
Hospital and Health Boards Act 2011

General Outline

Short title

Health Legislation (Scope of Practice) Amendment Regulation 2018

Authorising law

Section 180 of the *Health Act 1937*
Section 282 of the *Hospital and Health Boards Act 2011*

Policy objectives and the reasons for them

Medicines and poisons are scheduled by the Therapeutic Goods Administration in the *Standard for the Uniform Scheduling of Medicines and Poisons* (Poisons Standard). In Queensland, the *Health (Drugs and Poisons) Regulation 1996* (HDPR) provides the authority for health practitioners to use scheduled substances.

The *Health Legislation (Scope of Practice) Amendment Regulation 2018* (Amendment Regulation) provides new authorities for certain classes of health practitioners, and streamlines the process for other health practitioners to have their nationally-recognised authorities adopted in Queensland.

The authorities in the HDPR impacted by the amendments relate to using Schedule 2 (S2) poisons, Schedule 3 (S3) poisons, Schedule 4 (S4) restricted drugs and Schedule 8 (S8) controlled drugs. Under the Poisons Standard, S2, S3 and S4 substances are referred to as pharmacy medicines, pharmacist-only medicines and prescription-only medicines respectively. Controlled drugs include addictive opioids, such as the painkillers fentanyl, oxycodone and morphine.

New authorities for particular health practitioners

The HDPR provides 'as-of-right' authorities for certain classes of health practitioners, including doctors, enrolled and registered nurses, and pharmacists, to perform activities such as prescribing, administering and supplying scheduled substances. The HDPR also allows the chief executive to grant case by case authority for individual health practitioners, including those discussed below, to perform these activities.

Clinical perfusionists

Clinical perfusion is a self-regulated profession. The professional body is the Australasian Society of Cardio-Vascular Perfusionists. Clinical perfusionists work in public and private hospitals in Queensland, under the direction of a medical practitioner, preparing and managing circuits for cardiac bypass or extracorporeal membrane oxygenation.

Administration of S2, S3, S4 and S8 substances, such as prescribed medications, anaesthetic agents and blood components, commonly occurs via the extracorporeal circulation equipment in the anaesthetic, intensive care and surgical procedural environments in which clinical perfusionists operate.

Although clinical perfusionists are not authorised in the HDPR to possess or administer these medications, they are suitably trained to perform a greater role in their administration. Pharmacology and practical administration of medicines modules are incorporated into their clinical training, and they perform their clinical functions under the direct supervision of medical practitioners.

Nuclear medicine technologists

Nuclear medicine technology is a nationally-regulated profession under the *Health Practitioner Regulation National Law* (National Law). A nuclear medicine technologist must be registered with the Medical Radiation Practice Board of Australia (MRPBA) and meet MRPBA registration standards in order to practice in Australia. Nuclear medicine technologists work in both public and private facilities in Queensland, performing diagnostic procedures using radiopharmaceuticals to determine the presence of disease on the basis of mapped metabolic changes.

As part of their mandatory professional training, nuclear medicine technologists are trained and assessed for their competence in administering specified scheduled substances used in nuclear medicine procedures. However, nuclear medicine technologists are not authorised in the HDPR to possess and administer these substances.

Physiotherapists

Physiotherapy is a nationally-regulated profession under the National Law. A physiotherapist must be registered with the Physiotherapy Board of Australia and meet Board Registration Standards in order to practise in Australia. Physiotherapists work in both public and private facilities across Queensland, performing assessments and providing treatment for a range of musculoskeletal, neurological and cardiorespiratory conditions.

Certain S2, S3 and S4 substances, when administered before and during clinical procedures undertaken by physiotherapists, enhance the effectiveness of those treatments. Physiotherapists

working in Queensland are authorised under section 259 of the HDPR to administer S2 substances to the extent necessary to practise physiotherapy, but are not authorised to administer S3 or S4 substances.

Respiratory scientists

Respiratory science is a self-regulated profession. The relevant professional body is the Australian and New Zealand Society of Respiratory Science. Respiratory scientists work in both public and private facilities across Queensland, performing respiratory investigations to identify bronchial hyper-responsiveness and reversibility in airway disease.

The timely administration of certain scheduled substances is critical to the efficacy of the investigations conducted by respiratory laboratories, and is a requirement of Australian and New Zealand laboratory accreditation. Respiratory scientists are suitably trained and assessed in the administration of these medications under the Australian and New Zealand Society of Respiratory Science spirometry training guidelines and respiratory function examination guidelines. However, respiratory scientists are not authorised in the HDPR to administer scheduled substances.

Speech pathologists

Speech pathology is a self-regulated profession. Their professional association is Speech Pathology Australia. Speech pathologists work in both public and private facilities across Queensland, performing voice and swallow assessments and the management of laryngectomy patients including those with voice prostheses.

Administration of specific scheduled substances by speech pathologists working in Queensland hospitals would improve the efficacy of particular interventions, and may improve patient flow and outcomes. For example, using topical corticosteroids to treat granulation tissue in laryngectomy patients and antifungal agents for oral candidiasis in radiation oncology and laryngectomy patients. However, speech pathologists are not authorised in the HDPR to administer scheduled substances.

Recognition of National Law endorsements

The HDPR gives certain health practitioners an ‘as-of-right’ authority to use particular scheduled substances in particular circumstances, meaning no additional approval is required before they may carry out such activities. Some of these practitioners, including endorsed midwives, optometrists, podiatrists and surgical podiatrists, also have a ‘scheduled medicines endorsement’ under the National Law, which recognises their further training and qualifications, and extends their ordinary scope of practice accordingly. However, before they may use the additional substances under that extended scope, a corresponding amendment to their authority in the HDPR is required.

Scheduled medicines endorsement

Under section 94 of the National Law, a National Board may endorse the registration of a registered health practitioner in accordance with an approval given by the Ministerial Council under section 14 of the National Law. That endorsement, known as a scheduled medicines endorsement, indicates the practitioner is qualified to prescribe, administer or otherwise use a particular scheduled substance or class of scheduled substance.

While a scheduled medicines endorsement indicates a practitioner is qualified to use a particular substance, it does not automatically authorise that use. Before a practitioner may undertake the activities and use the substance to which an applicable scheduled medicines endorsement relates, specific authority is also required under the HDPR.

There is no benefit in imposing this additional regulatory burden. A National Board must be satisfied a practitioner is appropriately qualified and compliant with any relevant registration standard before it may seek the Ministerial Council's approval to make a scheduled medicines endorsement. The requirement to be satisfied of a person's competence and fitness and the subsequent approval of the Ministerial Council replicates the due diligence and scrutiny applied to a proposal to amend the HDPR to authorise a particular use.

Nurse practitioners

Under section 95 of the National Law, the Nursing and Midwifery Board of Australia may endorse the registration of a nurse as being qualified to practise as a nurse practitioner. An endorsement indicates the person has the additional education, training and competence required to assume additional roles, functions, responsibilities and decision-making activities beyond those within the ordinary scope of a registered nurse.

The scope of practice for each individual nurse practitioner may be different, as it is self-determined by that nurse practitioner in accordance with the education, training and competency requirements contained in the standards, guidelines and frameworks issued by the Nursing and Midwifery Board of Australia.

However, before that extended scope of practice may be exercised in Queensland, the HDPR must provide authority to carry out the activities. For example, prescribing, administering or supplying a scheduled substance. The HDPR provides these activities are authorised if they are carried out pursuant to the *Drug Therapy Protocol – Nurse Practitioners* (nurse practitioner DTP). The nurse practitioner DTP states the circumstances and conditions under which a nurse practitioner is authorised to prescribe, administer, supply, or give a written or oral instruction to administer or supply S2, S3, S4 or S8 substances, to the extent necessary to practise as a nurse practitioner. The key condition is that the nurse practitioner's scope of practice must be published on the Department of Health website and re-defined every three years.

There is no benefit in imposing this additional regulatory burden for nurse practitioners to practice under the nurse practitioner DTP. The Nursing and Midwifery Board of Australia has published a range of standards, guidelines and decision-making tools to assist individual nurse practitioners in appropriately self-determining their scope of practice. This includes determining the circumstances in which particular uses of particular substances may be appropriate.

Renaming of Lady Cilento Children's Hospital to Queensland Children's Hospital

The *Hospital and Health Boards Act 2011* provides that a regulation may establish a Hospital and Health Service, and may declare a health service area for a Hospital and Health Service. Health service areas include a part of the State or a public sector hospital, service or service facility.

The *Hospital and Health Boards Regulation 2012* establishes the Children's Health Queensland Hospital and Health Service and declares the Lady Cilento Children's Hospital to be one of the service areas within that Hospital and Health Service.
The hospital is responsible for providing general paediatric health services to children and young people in the greater metropolitan area, as well as tertiary-level care for the state's sickest and most seriously injured children.

Following an extensive consultation process, the hospital's name has been changed to the Queensland Children's Hospital. This makes it clear that the hospital is a public facility providing specialist care to all children across the State.

Achievement of policy objectives

New authorities for particular health practitioners

Clinical perfusionists

The amendments authorise clinical perfusionists to:

- possess specified S4 and S8 substances; and
- introduce S2, S3, S4 and S8 substances into extracorporeal circulation equipment under a clinical protocol and the supervision of an anaesthetist or cardiothoracic surgeon.

Nuclear medicine technologists

The amendments authorise nuclear medicine technologists to possess specified S4 substances, and administer S2, S3 and S4 substances under a clinical protocol, when conducting a nuclear medicine investigation.

Physiotherapists

The amendments authorise physiotherapists to:

- possess specified S4 substances;
- administer specified S2 and S3 substances; and
- administer specified S4 substances under the written instruction of an authorised prescriber if the drug has been lawfully dispensed or supplied for the person it is administered to.

Respiratory scientists

The amendments authorise respiratory scientists to possess specified S4 substances, administer particular S2 and S3 substances, including an S3 substance to treat anaphylaxis, and administer specified S4 substances under a clinical protocol, when conducting a respiratory function test.

Due to the inherent risk associated with the administration of medications affecting respiratory capacity, the amendments include safeguards to ensure administration is only performed by persons suitably trained to provide first aid management of anaphylaxis, and in controlled clinical environments.

Speech pathologists

The amendments authorise speech pathologists to:

- administer S2 and S3 substances to treat anaphylaxis; and
- administer specified S2, S3 and S4 substances on the written instruction of an authorised prescriber to the extent necessary to practice speech pathology.

To ensure these medications are administered safely, speech pathologists must first undertake appropriate training in the safe administration of medicines.

There is an inherent risk of anaphylaxis arising from the use of the specified medications that speech pathologists will be authorised to administer. The amendments provide that administration may only be undertaken by persons suitably trained to provide first aid management of anaphylaxis.

Recognition of National Law endorsements

Scheduled medicines endorsement

The amendments create an 'as-of-right' authority for a practitioner to whom a scheduled medicines endorsement applies to use those S2, S3, S4 and S8 substances in the way the scheduled medicines endorsement provides.

The amendments authorise endorsed podiatrists to:

- obtain, possess, prescribe, administer or supply a podiatry controlled drug or podiatry restricted drug;
- give someone who may administer or supply a podiatry controlled drug or podiatry restricted drug a written instruction to administer or supply the drug;
- prescribe, administer or supply a podiatry S2 or S3 poison; and
- give someone who may administer or supply a podiatry S2 or S3 poison a written instruction to administer or supply the poison.

An endorsed podiatrist can only perform these activities to the extent necessary to practice podiatry. Performing these activities is in addition to the endorsed podiatrist's authority as a podiatrist, or if endorsed as a surgical podiatrist their authority as a surgical podiatrist.

The amendments authorise endorsed optometrists to:

- obtain, possess, prescribe, administer or supply an appendix B or C restricted drug;
- give someone who may administer or supply an appendix B or C restricted drug a written instruction to administer or supply the drug;
- prescribe, administer or supply an appendix B poison; and
- give someone who may administer or supply an appendix B poison a written instruction to administer or supply the poison.

An endorsed optometrist can only perform these activities to the extent necessary to practice optometry. Performing these activities is in addition to an endorsed optometrist's authority as an optometrist.

The amendments authorise endorsed midwives to:

- prescribe, administer or supply a controlled or restricted drug;
- give someone who may supply a controlled or restricted drug an oral or written instruction to administer or supply the drug;
- prescribe or supply an S2 or S3 poison; and
- give someone who may administer or supply an S2 or S3 poison an oral or written instruction to administer or supply the poison.

An endorsed midwife can only perform these activities to the extent necessary to practice midwifery. Performing these activities is in addition to the endorsed midwife's authority as a midwife.

Nurse practitioners

The amendments authorise nurse practitioners to:

- obtain, prescribe, administer or supply a controlled drug or restricted drug;
- give someone who may administer or supply a controlled drug an oral or written instruction to administer or supply the drug;
- prescribe or supply an S2 or S3 poison; and
- give someone who may administer or supply an S2 or S3 poison an oral or written instruction to administer or supply the poison.

A nurse practitioner can only perform these activities if:

- the drug or poison is referenced in the Australian Register of Therapeutic Goods;
- the activity falls within their scope of practice; and
- the nurse practitioner is reasonably satisfied the person has a therapeutic need for the drug.

Performing these activities is in addition to a nurse practitioner's authority as a registered nurse.

Renaming of Lady Cilento Children's Hospital to Queensland Children's Hospital

The amendments change references to 'Lady Cilento Children's Hospital' to 'Queensland Children's Hospital' in the Hospital and Health Boards Regulation, to reflect the hospital's change in name.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the policy objectives of the Health Act, to protect public health by regulating access to potentially harmful substances, and the Hospital and Health Boards Act, to establish a public health system that delivers high quality hospital and health services to persons in Queensland.

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 amendments to the HDPR streamline, facilitate and expand the health service delivery activities of the health practitioners to which they apply, and are not expected to impose costs on those persons or the community. The amendments remove the administrative burden on both individual practitioners and the department in processing temporary case by case approvals to authorise individual practitioners within the specified professions to perform particular activities.

Implementation of the name change from Lady Cilento Children's Hospital to Queensland Children's Hospital will not see a reduction in budget available to Children's Health Queensland Hospital and Health Service or the hospital for the treatment of patients. Most of the costs will be associated with replacing signage on the building and in the hospital precinct. These costs, which are expected to be less than $500,000, will be covered by the Department of Housing and Public Works. Changes to stationery, letterhead and other printed material will be made on an as-needs basis, as old stock runs out. Changes to information and communication technology systems and digital platforms will be made as and when routine upgrades, updates and maintenance are scheduled.

Consistency with fundamental legislative principles

The Amendment Regulation is generally consistent with the fundamental legislative principles in section 4 of the *Legislative Standards Act 1992*, with the possible exceptions discussed below.

Definitions of clinical perfusionist and respiratory scientist

The new definitions of *clinical perfusionist* and *respiratory scientist* give rise to a potential breach of fundamental legislative principles. Clause 54 provides that a person is a clinical perfusionist if they are either employed as a clinical perfusionist at a relevant facility, or recognised as a clinical perfusionist by the chief executive. A respiratory scientist is similarly defined in clause 54. The definitions may be seen to breach section 4(3)(a) of the Legislative Standards Act as they raise the fundamental legislative principle of whether a provision which makes rights, liberties or obligations dependent on an administrative power is sufficiently defined and subject to appropriate review.

The criteria the chief executive considers when deciding whether to recognise a person under the second limb of the definition is whether the individual would be eligible for employment as a clinical perfusionist or respiratory scientist under the first limb, for example, whether the individual's qualifications and experience are consistent with the role requirements of a clinical perfusionist or respiratory scientist employed by a Hospital and Health Service.

The majority of clinical perfusionists and respiratory scientists will be employed at facilities, and fall within the first limb of the definition. The second limb will ensure the benefits of the amendment can also be applied to those few clinical perfusionists and respiratory scientists that are not directly employed by, or do not work in, a prescribed facility. The chief executive uses

an individual's qualifications and experience to determine whether to recognise a person as a clinical perfusionist or respiratory scientist on a case by case basis. As a result, any breach of the fundamental legislative principle is minor and not expected to negatively impact on any person.

Definitions of national podiatry scheduled medicines list, nurse practitioner standards and optometry guidelines

The new definitions of *national podiatry scheduled medicines list*, *nurse practitioner standards* and *optometry guidelines* in clause 54 may give rise to a potential breach of fundamental legislative principles. The definitions refer to the scheduled list of medicines published by the relevant National Board. Relying on an external document that is not subject to parliamentary scrutiny may be seen to breach section 4(5)(e) of the Legislative Standards Act, which provides that the subdelegation of a power delegated by an Act should only occur in appropriate cases and to appropriate persons, and if authorised by an Act.

The Podiatry Board of Australia, the Nursing and Midwifery Board of Australia and the Optometry Board of Australia publish lists of classes of scheduled medicines, which are updated from time to time. To ensure the HDPR is kept up to date, the date of the most recent version of the scheduled medicines list is not included in the definition.

There is a rigorous process to which National Registration Boards must adhere in order to amend registration standards, guidelines and lists of approved medicines. The process is governed by the Council of Australian Governments Health Council and any amendments must be approved by the Minister for Health from each jurisdiction. The Ministerial Council may, at any time, ask a National Board to review an approved or proposed registration standard for the health profession for which the National Board is established. The registration standards, guidelines and lists of approved medicines are published online under the relevant sections on the respective Board's website:

- Nursing and Midwifery Board of Australia – https://www.nursingmidwiferyboard.gov.au/;
- Optometry Board of Australia – https://www.optometryboard.gov.au; and
- Podiatry Board of Australia – https://www.podiatryboard.gov.au.

This potential breach of the fundamental legislative principle is considered justified as it will ensure the definitions in the HDPR are up to date, avoiding the need to amend the HDPR each time the scheduled list of medicines is changed.

Authorities for nurse practitioners

Clauses 7, 23 and 39 give effect to a nurse-practitioner's scope of practice. Clause 54 defines *scope of practice* to mean the nurse practitioner's scope of practice under the nurse practitioner standards. Nurse practitioner standards are defined in clause 54 as the document called 'Nurse practitioner standards for practice' made by the Nursing and Midwifery Board of Australia under the National Law.

Defining a nurse practitioner's scope of practice by reference to an external document that is not subject to parliamentary scrutiny may be seen to breach section 4(5)(e) of the Legislative Standards Act.

The Nurse practitioner standards published by the Board are accessible to the public on the Board's website: http://www.nursingmidwiferyboard.gov.au/. The Nurse practitioner standards are designed to be read in conjunction with the Board's Safety and Quality Guidelines for Nurse Practitioners, Registration Standard and associated Guidelines, which are also accessible to the public on the Board's website. The complex interaction between the documents and changing nature of the documents make it practicable and more cost-effective to incorporate the documents in this manner. The Board is a body established under the National Law. It has an express function under the National Law to 'develop or approve standards, codes and guidelines for the health profession'. As a result, any breach of the fundamental legislative principle is minor and justifiable.

Consultation

The Office of Best Practice Regulation was consulted on the Amendment Regulation and has advised that further regulatory impact assessment is not required.

Consultation on the HDPR amendments was undertaken with:

- Australian and New Zealand College of Anaesthetists
- Australian and New Zealand College of Perfusionists
- Australian and New Zealand Society of Cardiac and Thoracic Surgeons
- Australian and New Zealand Society of Nuclear Medicine (Queensland Branch)
- Australian and New Zealand Society of Respiratory Science (Queensland Branch)
- Australian Medical Association Queensland (AMAQ)
- Australian Physiotherapy Association (Queensland Branch)
- Australian Podiatry Association
- Optometry Australia (Queensland and Northern Territory Branch)
- Speech Pathology Australia
- Private Hospitals Association of Queensland
- Australian College of Midwives (Queensland Branch)
- Australian College of Nursing
- Australian College of Nurse Practitioners,
- Queensland Nurses and Midwives' Union (QNMU)
- Together Queensland
- United Voice
- Health Consumers Queensland
- Queensland Clinical Senate
- Statewide Respiratory Clinical Network
- Statewide Anaesthesia and Perioperative Care Clinical Network
- Queensland Emergency Department Strategic Advisory Panel
- Queensland Nursing and Midwifery Executive Council
- Statewide Maternity and Neonatal Network
- Hospital and Health Services – Chief Executives.

New authorities for particular health practitioners

Those consulted supported the amendments except for the Australian College of Nursing. The Australian College of Nursing indicated it does not support unregistered health practitioners administering medicines citing professional governance concerns with unregistered health professions. The Amendment Regulation addresses governance concerns by ensuring

administration is only undertaken by appropriately trained persons, within a suitable clinical setting and only within the scope of practice of the health professional.

Scheduled Medicines endorsement

Those consulted supported the amendments except for one peak body. The peak body indicated that strong concerns regarding the amendments for midwives on the basis that it considers only doctors have the necessary skills and training to prescribe S8 medicines. The amendments apply only to endorsed midwives who have undergone additional education and training in the pharmacology, therapeutics and diagnostics relevant to the medicines within the scope of their midwifery practice and their endorsement for scheduled medicines. This includes S8 medicines for pain relief during labour, birth and postnatal care. Midwives must operate within the Board's Midwife Standards for Practice which are published by the Board and accessible to the public on the Board's website: https://www.nursingmidwiferyboard.gov.au/Codes-Guidelines-Statements/Professional-standards/Midwife-standards-for-practice.aspx. Where relevant, this involves collaboration, consultation and referral to other services or health practitioners.

Nurse practitioners

Those consulted supported the amendments except for one peak body. The peak body indicated that it has strong concerns regarding the amendments for nurse practitioners as it considers removing the requirement to practice under the Nurse Practitioner Drug Therapy Protocol (DTP) will increase the nurse practitioner's scope of practice. The Nurse Practitioner DTP does not provide a formulary of medicines for nurse practitioners. The DTP only requires that the nurse practitioners publish their scope of practice area on the Department's website. The scope of practice is self-declared by the nurse practitioner. Accordingly, publishing the scope of practice on the Department's website provides no greater public protection than the self-regulation already required by the National Law and does not increase the scope of practice of the nurse practitioner.

Renaming of Lady Cilento Children's Hospital to Queensland Children's Hospital

Extensive consultation was undertaken regarding the change in name for the Queensland Children's Hospital. The Children's Health Queensland Medical Staff Association, the Children's Health Queensland Hospital and Health Board and the Children's Hospital Foundation support the change in name.

Public consultation on the name change was undertaken through the GetInvolved website. The survey opened on 31 July 2018 and closed on 31 August 2018. Sixty-two per cent (62%) of the 38,681 votes supported the change of name.

Notes on provisions

Part 1 Preliminary

1 Short title

Clause 1 provides the short title of the Amendment Regulation.

Part 2 Amendment of Health (Drugs and Poisons) Regulation 1996

2 Regulation amended

Clause 2 provides that this part amends the *Health (Drugs and Poisons) Regulation 1996*.

3 Amendment of s 15 (Suitability of person to hold endorsement)

Clause 3 corrects a reference to the example in section 15(1)(d). The example incorrectly refers to section 15(1)(c).

4 Insertion of new s 55A

Clause 4 inserts section 55A (Clinical perfusionists), which provides for a clinical perfusionist to:

- possess a controlled drug at a place where they practice perfusion; and
- introduce a controlled drug into extracorporeal circulation equipment if the drug is introduced under a clinical protocol and under the supervision of an anaesthetist or cardiothoracic surgeon.

A controlled drug, restricted drug or poison is introduced into extracorporeal circulation equipment by administering the drug or poison by preparing or mixing the drug or poison to be loaded into the equipment, preparing the equipment for the drug or poison or loading the drug or poison into the equipment, whether or not the equipment is connected to a person.

5 Amendment of s 58A (Enrolled nurses)

Clause 5 makes consequential changes to section 58A as a result of the changes to the authority of other health practitioners.

6 Amendment of s 62 (Midwives)

Clause 6 makes a consequential change to section 62 as a result of the changes to the authority of other health practitioners.

7 Insertion of new ss 62A and 62B

Clause 7 inserts sections 62A (Endorsed midwives) and 62B (Nurse practitioners).

Section 62A (Endorsed midwives) provides for an endorsed midwife to prescribe, administer or supply a controlled drug, or give someone who may administer or supply a controlled drug an oral or written instruction to administer or supply the drug. Performing these activities is in addition to the endorsed midwife's authority as a midwife under section 62.

Section 62B (Nurse practitioners) provides for a nurse practitioner to obtain, prescribe, administer or supply a controlled drug, or give someone who may administer or supply a controlled drug an oral or written instruction to administer or supply the drug. A nurse practitioner can only perform these activities if:

- the drug is referenced in the Australian Register of Therapeutic Goods;
- the activity falls within their scope of practice; and
- the nurse practitioner is reasonably satisfied the person has a therapeutic need for the drug.

Performing these activities is in addition to a nurse practitioner's authority as a registered nurse under section 67.

8 Amendment of s 64 (Pharmacists)

Clause 8 makes a consequential change to section 64 as a result of changes to the authority of a nurse practitioner.

9 Insertion of new s 64B

Clause 9 inserts section 64B (Endorsed podiatrists), which provides for an endorsed podiatrist to obtain, possess, prescribe, administer or supply a podiatry controlled drug, or give someone who may administer or supply a podiatry controlled drug a written instruction to administer or supply the drug. If the endorsed podiatrist is also a surgical podiatrist, they can perform these activities in addition to a surgical podiatrist's authority under section 64A.

10 Amendment of s 67 (Registered nurses)

Clause 10 makes consequential changes to section 67 as a result of changes to the authority of other health practitioners. The amendment also omits section 67(4) as a result of inserting new section 62B.

11 Amendment of s 68 (Certain registered nurses at rural hospitals)

Clause 11 makes a consequential change to section 68 as a result of changes to the authority of other health practitioners.

12 Amendment of s 70A (Trainees in certain occupations)

Clause 12 makes a consequential change to the definition of *relevant occupation* in section 70A as a result of changes to the authority of other health practitioners.

13 Amendment of s 97 (Oral instruction must be put in writing)

Clause 13 makes a consequential change to section 97 as a result of changes to the authority of other health practitioners.

14 Amendment of s 111 (Records—dentists, doctors, nurse practitioners, veterinary surgeons)

Clause 14 makes a consequential change to section 111 as a result of changes to the authority of other health practitioners.

15 Amendment of s 120 (Notice required if lengthy treatment with controlled drug)

Clause 15 makes consequential changes to section 120 as a result of changes to the authority of other health practitioners.

16 Amendment of s 121 (Controlled drugs not to be obtained unless information disclosed)

Clause 16 makes consequential changes to section 121 as a result of changes to the authority of other health practitioners.

17 Amendment of s 122 (Approval needed for treating certain drug dependent persons with controlled drugs)

Clause 17 makes a consequential change to section 122 as a result of changes to the authority of other health practitioners.

18 Amendment of s 123 (Self-administration of controlled drugs by authorised persons prohibited)

Clause 18 makes consequential changes to section 123 as a result of changes to the authority of other health practitioners.

19 Insertion of new s 158AA

Clause 19 inserts section 158AA (Clinical perfusionists), which provides for a clinical perfusionist to:

- possess a restricted drug at a place where they practice perfusion; and
- introduce a restricted drug into extracorporeal circulation equipment if the drug is introduced under a clinical protocol and under the supervision of an anaesthetist or cardiothoracic surgeon.

20 Amendment of s 162 (Enrolled nurses)

Clause 20 makes consequential changes to section 162 as a result of changes to the authority of other health practitioners.

21 Amendment of s 167 (Midwives)

Clause 21 makes a consequential change to section 167 as a result of changes to the authority of other health practitioners. Clause 21 omits the definition of *nitrous oxide mixture* from section 167(3) and inserts it into appendix 9 (Dictionary).

22 Replacement of s 167A (Eligible midwives)

Clause 22 replaces section 167A (Endorsed midwives). The new section provides for an endorsed midwife to prescribe, administer or supply a restricted drug, or give someone who may administer or supply a restricted drug an oral or written instruction to administer or supply the drug. Performing these activities is in addition to the endorsed midwife's authority as a midwife under section 167. The new authorities are consistent with an endorsed midwife's scheduled medicines endorsement under the *Health Practitioner Regulation National Law* (National Law).

23 Insertion of new ss 168A and 168B

Clause 23 inserts sections 168A (Nuclear medicine technologists) and 168B (Nurse practitioners).

Section 168A (Nuclear medicine technologists) provides for a nuclear medicine technologist to possess and administer specified restricted drugs under a clinical protocol, when preparing for and during a nuclear medicine investigation.

Section 168B (Nurse practitioners) provides for a nurse practitioner to obtain, prescribe, administer or supply a restricted drug, or give someone who may administer or supply a restricted drug an oral or written instruction to administer or supply the drug. A nurse practitioner can only perform these activities if:

- the drug is referenced in the Australian Register of Therapeutic Goods;
- the activity falls within their scope of practice; and
- the nurse practitioner is reasonably satisfied the person has a therapeutic need for the drug.

The authorities are consistent with a nurse practitioner's endorsement under the National Law. Performing these activities is in addition to a nurse practitioner's authority as a registered nurse under section 175.

24 Replacement of s 170 (Optometrists)

Clause 24 replaces section 170 (Optometrists). New section 170 provides for an optometrist to obtain, possess or administer an appendix A restricted drug.

An appendix A restricted drug is a restricted drug for topical use mentioned in appendix A of the *Guidelines for use of scheduled medicines* made by the Optometry Board of Australia.

25 Insertion of new s 170AA

Clause 25 inserts section 170AA (Endorsed optometrists), which provides for an endorsed optometrist to obtain, possess, prescribe, administer or supply an appendix B or C restricted drug, or give someone who may administer or supply an appendix B or C restricted drug a written instruction to administer or supply the drug. The new authorities are consistent with an endorsed optometrist's scheduled medicines endorsement under the National Law. Performing these activities is in addition to the endorsed optometrist's authority as an optometrist under section 170.

An appendix B or C restricted drug is a restricted drug for topical use mentioned in appendix B or Appendix C of the *Guidelines for use of scheduled medicines* made by the Optometry Board of Australia.

26 Insertion of new s 171B

Clause 26 inserts section 171B (Physiotherapists), which provides for a physiotherapist, when treating a respiratory disease, to:

- possess a respiratory restricted drug; and
- administer a respiratory restricted drug:
  - on the written instruction of a doctor, nurse practitioner or a physician's assistant; or
  - to the person for whom it has been lawfully dispensed or supplied for the person.

A physiotherapist is also authorised to possess a nitrous oxide mixture in a hospital or administer a nitrous oxide mixture in a hospital on a written instruction.

27 Amendment of s 172A (Surgical podiatrists)

Clause 27 amends section 172A (Surgical podiatrists) to insert new paragraph 172A(a)(iii), which provides for a surgical podiatrist to obtain, administer and possess adrenalin when combined with lignocaine, bupivacaine or prilocaine when practising podiatry.

28 Replacement of s 172B (Endorsed podiatrists)

Clause 28 replaces section 172B (Endorsed podiatrists). New section 172B provides for an endorsed podiatrist to obtain, possess, prescribe, administer or supply a podiatry restricted drug, or give someone who may administer or supply a podiatry restricted drug a written instruction to administer or supply the drug. The new authorities are consistent with an endorsed podiatrist's scheduled medicines endorsement under the National Law. Performing these activities is in addition to the endorsed podiatrist's authority as a podiatrist under section 172, or if endorsed as a surgical podiatrist their authority as a surgical podiatrist under section 172A.

A podiatry restricted drug is a restricted drug mentioned in the national podiatry scheduled medicines list.

29 Omission of s 172C (Trainee endorsed podiatrists)

Clause 29 omits section 172C as trainee endorsed podiatrists are dealt with under the general trainee provision in section 179AA.

30 Amendment of s 175 (Registered nurses)

Clause 30 makes consequential changes to section 175 as a result of changes to the authority of other health practitioners. Section 175(8) is omitted as a result of inserting new section 168B.

31 Amendment of s 176 (Certain registered nurses at rural hospitals)

Clause 31 makes a consequential change to section 176 as a result of changes to the authority of other health practitioners.

32 Insertion of new s 177

Clause 32 inserts section 177 (Respiratory scientists), which provides for a respiratory scientist, when conducting a respiratory function test, to possess a specified restricted drug, or administer a specified restricted drug if administered under a clinical protocol.

33 Insertion of new s 178A

Clause 33 inserts section 178A (Speech pathologists), which provides for a speech pathologist to administer a specified restricted drug on a written instruction. The speech pathologist may only administer the drug if they have completed a course of training relating to the safe administration of medicines.

34 Amendment of s 179AA (Trainees in certain occupations)

Clause 34 makes a consequential change to the definition of *relevant occupation* in section 179AA as a result of changes to the authority of other health practitioners.

35 Amendment of s 190 (Prescribing restricted drugs)

Clause 35 makes consequential changes to section 190 as a result of changes to the authority of other health practitioners.

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

Clause 36 inserts section 207(1AA) to provide that a nurse practitioner must keep records for all restricted drugs supplied by the nurse practitioner.

37 Amendment of s 212 (Restricted drugs of dependency not to be obtained unless information disclosed to dentist, doctor, nurse practitioner or surgical podiatrist)

Clause 37 makes consequential changes to section 212 as a result of changes to the authority of other health practitioners.

38 Amendment of s 213 (Approval needed for treating certain drug dependent persons with restricted drugs of dependency)

Clause 38 makes a consequential change to section 213 as a result of changes to the authority of other health practitioners.

39 Insertion of new s 247

Clause 39 inserts section 247 (Clinical perfusionists), which provides for a clinical perfusionist to introduce an S2 or S3 poison into extracorporeal circulation equipment if the poison is introduced under a clinical protocol and under the supervision of an anaesthetist or cardiothoracic surgeon.

40 Insertion of new ss 255A to 255C

Clause 40 inserts sections 255A (Endorsed midwives), 255B (Nuclear medicine technologists) and 255C (Nurse practitioners).

Section 255A (Endorsed midwives) provides for an endorsed midwife to:

- prescribe an S2 or S3 poison for midwifery;
- supply an S2 or S3 poison; and
- give someone who may administer or supply an S2 or S3 poison an oral or written instruction to administer or supply the poison.

Performing these activities is in addition to the endorsed midwife's authority as a midwife under section 255.

Section 255B (Nuclear medicine technologists) provides for a nuclear medicine technologist, when preparing for and during a nuclear medicine investigation, to:

- administer adrenalin of a strength of not more than 0.1 per cent from a pre-loaded device; and
- administer another S2 or S3 poison under a clinical protocol.

Section 255C (Nurse practitioners) provides for a nurse practitioner to prescribe or supply an S2 or S3 poison, or give someone who may administer or supply an S2 or S3 poison an oral or written instruction to administer or supply the poison. A nurse practitioner can only perform these activities if:

- the poison is mentioned in the Australian Register of Therapeutic Goods;
- the activity falls within their scope of practice; and
- the nurse practitioner is reasonably satisfied the person has a therapeutic need for the poison.

Performing these activities is in addition to a nurse practitioner's authority as a registered nurse under section 263.

41 Amendment of s 256 (Optometrists)

Clause 41 omits subsections 256(2) and (3) as trainee optometrists are dealt with under the general trainee provision in section 265AA.

42 Insertion of new s 256AAA

Clause 42 inserts section 256AAA (Endorsed optometrists), which provides for an endorsed optometrist to prescribe, administer or supply an appendix B poison, or give someone who may administer or supply an appendix B poison a written instruction to administer or supply the poison. Performing these activities is in addition to an endorsed optometrist's authority as an optometrist under section 256.

An appendix B poison is an S2 or S3 poison for topical use mentioned in appendix B of the *Guidelines for use of scheduled medicines* made by the Optometry Board of Australia.

43 Replacement of s 259 (Physiotherapists)

Clause 43 replaces section 259 to provide for a physiotherapist to administer S2 poisons or S3 poisons that are an analgesic or bronchodilator on a written instruction. A physiotherapist may only administer the poison if the poison has been lawfully dispensed or supplied.

44 Amendment of s 260 (Podiatrists)

Clause 44 omits subsections 260(2) and (3) as trainee podiatrists are dealt with under the general trainee provision in section 265AA.

45 Amendment of s 260A (Surgical podiatrists)

Clause 45 omits subsection 260A(a) as the substances referred to have been reclassified as restricted drugs and inserted into section 172A.

46 Replacement of s 260B (Endorsed podiatrists)

Clause 46 replaces section 260B (Endorsed podiatrists). New section 260B provides for an endorsed podiatrist to prescribe, administer or supply a podiatry poison, or give someone who may administer or supply a podiatry poison a written instruction to administer or supply the poison. Performing these activities is in addition to the endorsed podiatrist's authority as a podiatrist under section 260, or if endorsed as a surgical podiatrist their authority as a surgical podiatrist under section 260A.

A podiatry poison is a S2 or S3 poison mentioned in the national podiatry scheduled medicines list.

47 Omission of s 260C (Trainee endorsed podiatrists)

Clause 47 omits section 260C as trainee endorsed podiatrists are dealt with under the general trainee provision in section 265AA.

48 Amendment of s 263 (Registered nurses)

Clause 48 omits section 263(5) as a result of inserting new section 255C.

49 Amendment of s 263A (Certain registered nurses at rural hospitals)

Clause 49 makes a consequential change to section 263A as a result of changes to the authority of other health practitioners.

50 Insertion of new s 263B

Clause 50 inserts section 263B (Respiratory scientists), which provides for a respiratory scientist conducting a respiratory function test to:

- administer adrenalin of a strength of not more than 0.1 per cent from a pre-loaded device provided they have completed a certified course of training in the management of anaphylaxis; and
- administer another S2 or S3 poison under a clinical protocol.

51 Insertion of new s 264B

Clause 51 inserts section 264B (Speech pathologists), which provides for a speech pathologist to administer adrenalin of a strength of not more than 0.1 per cent from a pre-loaded device or administer another S2 or S3 poison on a written instruction. The speech pathologist may only administer the poison if they have completed a certified course in the safe administration of medicines.

52 Amendment of s 256AA (Trainees in certain occupations)

Clause 52 makes a consequential change to the definition of *relevant occupation* in section 265AA as a result of changes to the authority of other health practitioners.

53 Amendment of appendix 2B (Restricted drugs and poisons for surgical podiatrists)

Clause 53 relocates appendix 2B, part 1, entries for diclofenac, ibuprofen and naproxen, to appendix 2B, part 2.

54 Omission of appendix 2C (Restricted drugs and poisons for endorsed podiatrists and trainee endorsed podiatrists)

Clause 54 omits appendix 2C as the list of scheduled medicines for endorsed podiatrists is dealt with under section 172B.

55 Amendment of appendix 9 (Dictionary)

Clause 55 amends appendix 9 to include new defined terms, amend existing definitions and remove defined terms no longer used in the HDPR.

Part 3 Amendment of Hospital and Health Boards Regulation 2012

56 Regulation amended

Clause 56 provides that this part amends the *Hospital and Health Boards Regulation 2012*.

57 Amendment of sch 1 (Hospital and Health Services)

Clause 57 amends schedule 1 to replace references to the Lady Cilento Children's Hospital with the Queensland Children's Hospital.