

South Australia

## Nursing and Midwifery Practice Regulations 2009

under the *Nursing and Midwifery Practice Act 2008*

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### Legislative history

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#### 1—Short title

These regulations may be cited as the *Nursing and Midwifery Practice Regulations 2009*.

#### 2—Commencement

These regulations come into operation on the day that section 42 of the Act comes into operation.

#### 3—Interpretation

In these regulations—

*Act* means the *Nursing and Midwifery Practice Act 2008*;

*business day* means any day other than a Saturday, Sunday or public holiday.

#### **4—Representative bodies**

For the purposes of the definition of *representative bodies* in section 3 of the Act, the following bodies are declared to be representative bodies for the purposes of the Act:

- (a) Australian College of Mental Health Nurses;
- (b) Australian College of Midwives, Inc;
- (c) Australian Nursing Federation;
- (d) Health Consumers Alliance Incorporated;
- (e) Royal College of Nursing Australia.

#### **5—Delegation by Board—prescribed powers and functions**

For the purposes of section 16(1) of the Act, the following powers and functions are prescribed:

- (a) the power of delegation under that section;
- (b) the power to hear and determine proceedings under Part 4 of the Act.

#### **6—Annual report**

For the purposes of section 24(2)(a)(iv) of the Act, the following information is prescribed:

- (a) the number of persons granted registration on each register required to be kept under section 25 of the Act;
- (b) the number of persons enrolled under the Act;
- (c) the number of persons granted limited registration on each register required to be kept under section 25 of the Act;
- (d) the number of persons granted limited enrolment under the Act;
- (e) the number of nurses and midwives whose registration is endorsed under section 36 of the Act, and the nature of each such endorsement;
- (f) the number of services providers who gave written notice to the Board in accordance with section 39 of the Act;
- (g) details of any code of conduct, professional standard or guideline prepared or endorsed by the Board;
- (h) a description of any committee established by the Board (including information as to the function of the committee);
- (i) the number of notices given to the Board under section 73 of the Act;
- (j) the number of reports made to the Board under section 74 of the Act;
- (k) the number of persons found guilty of an offence against the Act or these regulations;
- (l) the total amount of fines paid to the Board in accordance with the Act;
- (m) the number and nature of complaints received by the Board against persons registered or enrolled under the Act that were made by persons of Aboriginal or Torres Strait Islander, or non-English speaking, backgrounds.

## **7—Prescribed areas of nursing or midwifery**

For the purposes of section 36(2)(a) of the Act, the area of mental health nursing is prescribed.

## **8—Prescribed terms**

For the purposes of paragraph (i) of the definition of *prescribed term* in section 46(3) of the Act, the expression "mental health nurse" is prescribed in relation to endorsement of registration with recognition in the area of mental health nursing.

## **9—Person to whom nurse or midwife to produce certificate of registration or enrolment**

For the purposes of paragraph (d) of the definition of *prescribed person* in section 50(2) of the Act, an exempt provider who has provided, or who is providing, nursing or midwifery care through the nurse or midwife is within the ambit of that definition.

## **10—Prescribed bodies—guidelines**

For the purposes of section 55(3) of the Act, the Australian Nursing Federation (SA Branch) is prescribed.

## **11—Prescribed employees—obligation to report medical unfitness or unprofessional conduct**

For the purposes of section 59(1)(c) of the Act, each employee responsible for the supervision of the person registered or enrolled under the Act is prescribed.

## **12—Required information in report of medical unfitness or unprofessional conduct**

- (1) For the purposes of section 59(1) of the Act, the following information is required:
  - (a) a prognosis in respect of the relevant person's medical unfitness to provide nursing or midwifery care;
  - (b) if the person making the report is of the opinion that the person is or may be medically unfit to provide nursing or midwifery care only in a particular area—a statement specifying the particular area and the reasons for the opinion.
- (2) For the purposes of section 59(2) of the Act, the following information is required:
  - (a) the date, time and place of the alleged unprofessional conduct;
  - (b) the nature of the alleged unprofessional conduct.

## **13—Prescribed information relating to claim against registered or enrolled person or services provider**

- (1) For the purposes of section 74(1) of the Act, the following information is prescribed:
  - (a) the details of the nursing or midwifery care forming the subject of the claim (including the date, time and place of the provision of the care);
  - (b) the nature of the loss or damage allegedly caused by the nursing or midwifery care forming the subject of the claim;

- (c) the date on which the person against whom the claim was made first became aware of the claim.
- (2) For the purposes of section 74(2) of the Act, the following information is prescribed:
  - (a) the details of the nursing or midwifery care forming the subject of the claim (including the date, time and place of the provision of the care);
  - (b) the nature of the loss or damage allegedly caused by the nursing or midwifery care forming the subject of the claim;
  - (c) the date on which the services provider against whom the claim was made first became aware of the claim.

#### **14—Certificates of registration or enrolment**

- (1) The Board must issue to each nurse or midwife a certificate of registration or enrolment (as the case requires) in a form determined by the Board.
- (2) The certificate must note, in a manner determined by the Board, any condition, limitation or endorsement that applies in relation to the person's registration or enrolment.

#### **15—Issue of duplicate if certificate lost etc**

If—

- (a) a nurse or midwife satisfies the Board that his or her certificate of registration or enrolment has been lost or destroyed; or
- (b) a certificate that has become wholly or partly illegible is delivered to the Board,

the Board may, on payment of a fee determined by the Board, issue a duplicate certificate.

#### **16—Return of certificate**

A nurse or midwife must within 2 business days deliver his or her certificate of registration or enrolment to the Board—

- (a) if there is a change in the accuracy of a particular specified in the certificate; or
- (b) on receiving notice of the suspension or cancellation of the registration or enrolment of the nurse or midwife; or
- (c) on being required by the Board by notice in writing to deliver the certificate to the Board.

Maximum penalty: \$2 500.

#### **17—Fees and charges**

- (1) The Board may fix—
  - (a) fees or charges for the purposes of the Act; and
  - (b) fees or charges for services provided by the Board in the exercise of its functions under the Act.

- (2) However, the Board must not, in relation to students, fix—
- (a) a fee for registration, or reinstatement of registration, on the students register; or
  - (b) an annual practice fee.
- (3) The Board may recover a fee or charge fixed under this regulation by action in a court of competent jurisdiction as a debt due to the Board from the person liable for payment of the fee or charge.

### **18—Temporary practice in the State**

A nurse or midwife who—

- (a) is employed as a nurse or midwife in another State; and
- (b) is required as a condition of his or her employment to practise nursing or midwifery in this State for a period not exceeding 1 month; and
- (c) is registered or enrolled as a nurse or midwife in the other State; and
- (d) has paid the appropriate fees currently payable under the law of the other State in relation to—
  - (i) practice; and
  - (ii) registration or enrolment as a nurse or midwife,

is exempt from the obligation to pay the registration or enrolment, and annual practice, fees under the Act.

## **Schedule 1—Revocation of regulations**

### **1—Revocation of *Nurses (Electoral) Regulations 1999***

The *Nurses (Electoral) Regulations 1999* are revoked.

### **2—Revocation of *Nurses Regulations 1999***

The *Nurses Regulations 1999* are revoked.

## Legislative history

### Notes

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

### Revocation of regulations

The *Nursing and Midwifery Practice Regulations 2009* were revoked by Sch 1 cl 1(g) of the *Health Practitioner Regulation National Law (South Australia) Regulations 2010* on 1.7.2010.

### Principal regulations

Year	No	Reference	Commencement
2009	201	<i>Gazette 9.7.2009 p3147</i>	4.8.2009: r 2