

## HEALTH PRACTITIONER REGULATION NATIONAL LAW (WA) BILL 2010

### EXPLANATORY MEMORANDUM

#### Background

Western Australia, through the Council of Australian Governments (COAG), is a party to an Intergovernmental Agreement (IGA) to create a single national registration and accreditation system (National Scheme) for health professionals. COAG signed the IGA on 26 March 2008.

The National Scheme creates a single national registration and accreditation system for ten health professions - chiropractors; dentists (including dental hygienists, dental prosthetists and dental therapists); medical practitioners; nurses and midwives; optometrists; osteopaths; pharmacists; physiotherapists; podiatrists; and psychologists.

Another four professions will join the National Scheme on 1 July 2012 - Aboriginal and Torres Strait Islander health practitioners, Chinese medicine practitioners, medical radiation practitioners and occupational therapists.

To facilitate the National Scheme, WA is introducing the Health Practitioner Regulation National Law (Western Australia) into Parliament (WA National Law). The schedule in the WA National Law contains the Health Practitioner Regulation National Law (the National Law) as enacted by participating jurisdictions.

The process for amending the National Law is set out in the IGA.

A very long and inclusive consultation process has been undertaken in the development of the National Law which included consultation forums in all jurisdictions and consultation papers were also provided to stakeholders for comment. Over 550 submissions were received and the best elements of those submissions were incorporated into the National Law.

One of the objectives of the National Law is to protect the public. As well it will provide a framework for the regulation of health practitioners in relation to registration, accreditation, complaints and conduct, health and performance, and privacy and information sharing.

Some of the main features of the National Law are mandatory reporting, criminal history and identity checks, an independent accreditation framework, and registration of students in those professions.

The introduction of a new Pharmacy Act into Parliament to be cognately debated with the WA National Law is a result of the Pharmacy Act 1964 being repealed as part of the National Law process. As controls such as limits on pharmacy ownership still need to be effective in Western Australia, and these matters are properly not dealt with in the National Law, a new Pharmacy Act in WA is required.

There are a number of consequential amendments under the National Law. Two examples are:

- the *Health Services (Conciliation and Review) Act 1995* which is currently being amended in the WA Parliament to become the *Health and Disability Services (Complaints) Act 1985*. The consequential amendments in the WA National Law will better define and strengthen the role of the Office of Health Review in WA and will enable the National Boards and the Office of Health Review to work together to resolve how a complaint or an element of a complaint will be managed; and

- prescribing for optometrists and other endorsed health practitioners that are registered under the National Law.

The *Health Practitioner Regulation National Law (Western Australia) Bill* comprises five parts and a schedule.

The five parts consist of a preliminary part, a part setting out the application of the Health Practitioner Regulation National Law, a part setting out provisions specific to WA, a part containing repeals, transitional and savings provisions, and a part containing consequential amendments.

## **Part 1 – Preliminary**

### **Clause 1 – Short title**

Clause 1 is self explanatory.

### **Clause 2 – Commencement**

Clause 2 provides for when sections of the Act will be operational.

Clause 2 (a) and (b) provides that sections 1 and 2 will be operational on assent and the remainder of the sections will be operational on proclamation.

### **Clause 3 – Terms used**

Clause 3(1) provides that the local application provisions of this Act, other than the National Law as set out in the schedule, are the local application provisions of the Act. This means the provisions that apply to Western Australia exclusively.

Clause 3(2) provides that in the local application provisions of the Act a reference to the National Law is applied by section 4 of the Act in Western Australia.

Clause 3(3) provides that if a term is given a meaning in the National Law it has the same meaning in the local application provisions of this Act and will apply in Western Australia.

## **Part 2 – Application of Health Practitioner Regulation National Law**

### **Clause 4 – Application of Health Practitioner Regulation National Law**

Clause 4(1) (a) and (b) provide that the National Law set out in the schedule to the Act applies as a law of Western Australia and may be cited as the *Health Practitioner Regulation National Law (Western Australia)*.

Clause 4(1)(c) provides that the National Law, as applied in Western Australia, is part of the Act. This is to ensure that the text of the National Law has effect for all purposes in Western Australia as an ordinary Act of Parliament.

Clause 4(2) restricts the power conferred by the *Health Practitioner Regulation National Law (Western Australia)* to make regulations under section 245 in the Schedule. The restriction applies to making regulations relating to the safe operation or use by a medical radiation practitioner of an electronic product, irradiating apparatus or radioactive substance as the terms are defined in section 4 of the *Radiation Safety Act 1975 (WA)*.

Regulations relating to these matters are made under the *WA Radiation Safety Act 1975*.

Clause 4(3) provides that the sections of the *Health Practitioner Regulation National Law (Western Australia)* do not apply to assets, liability, contract, property or record that relate to the management of the unincorporated Pharmaceutical Society by the Pharmaceutical Council of Western Australia. This means that from participation day the items listed above as being the property of the Pharmaceutical Society will not be transferred to the National Agency.

#### **Clause 5 – Meaning of generic terms in *Health Practitioner Regulation National Law (Western Australia)* for purposes of this jurisdiction**

Clause 5 defines some generic terms used in the National Law for the purposes of their application in the Law in Western Australia. Specifically, clause 5 defines the terms magistrate and Magistrates Court in this jurisdiction (WA) for the *Health Practitioner Regulation National Law of Western Australia*.

#### **Clause 6 – Responsible tribunal for *Health Practitioner Regulation National Law (Western Australia)***

Clause 6 provides that the State Administrative Tribunal (SAT) is declared to be the responsible tribunal for Western Australia for the purposes of the *Health Practitioner Regulation National Law (Western Australia)*.

This declaration gives effect to the definition of responsible tribunal in clause 5 of the National Law. That definition provides that a responsible tribunal means a tribunal or court that has been declared by the Act applying the National Law in a participating jurisdiction to be the responsible tribunal for that jurisdiction. The responsible tribunal has jurisdiction to hear appeals against decisions made by the National Boards, health panels and performance and professional standards panels in relation to registered health practitioners and students in that jurisdiction.

#### **Clause 7 – Exclusion of legislation of this jurisdiction**

Clause 7 provides that a number of Acts that generally apply to Western Australian legislation do not apply to the *Health Practitioner Regulation National Law (Western Australia)* or instruments, including regulations, made under that Law. In particular, Acts dealing with the interpretation of legislation, financial matters, freedom of information, the role of the ombudsman and matters relating to the employment of public servants will not apply to the *Health Practitioner Regulation National Law (Western Australia)*. Instead, provisions have been included in the National Law to deal with each of these matters ensuring that the same applies in relation to each jurisdiction that either adopts or has corresponding National Law as is the case in WA.

### **Part 3 – Provisions specific to this jurisdiction**

#### **Clause 8 Transfer of certain property exempt from duty**

Clause 8(1) provides that the meanings given to dutiable property and transactions have the same meanings as defined in section 3 of the *Duties Act 2008*.

Clause 8(2) provides that a dutiable transaction relating to the transfer of dutiable property from a local health practitioner registration board to the National Agency under the *Health Practitioner Regulation National Law (Western Australia) Act* is exempt from duty under the *Duties Act 2008*. This means it will not add another cost in the implementation of the National Scheme.

### **Clause 9 - Minister's Directions**

Clause 9 provides for the Minister to give a local health practitioner registration board a written notice to do certain things to enable the transition to the national registration and accreditation scheme: Clause 9(a) to transfer funds to the National Agency before participation day for Western Australia;

- Clause 9(b) to give information to the National Agency before participation day;
- Clause 9(c) to sign documents that are needed to enable transition to the national registration and accreditation scheme.
- Clause 9(d) to take any other action or do any other thing required to enable the transition to the national registration and accreditation scheme.

A local registration health practitioner board must carry out directions given by the Minister under this section.

### **Clause 10 – Police Commissioner may give criminal history information**

Clause 10 provides some clarity around the criminal history provisions in the National Law. This clause removes possible doubt that the Western Australia Police Commissioner is able to disclose criminal history information, including spent convictions and charges, to a National Board. A police agency is also able to give a criminal history report to a National Board.

However, whilst the National Law requires a National Board to have regard to a health practitioner's criminal history, it does not mean that the health practitioner will necessarily be considered to be unsuitable to practise. A registration standard has been developed by each National Board. The Ministerial Council will approve the registration standards and they will be published on each Board's website. The registration and accreditation standards have been provided to health practitioners giving them an opportunity to comment on the proposals, thereby creating a transparent process in the development of the standards.

### **Clause 11 – Appeal from decision of the State Administrative Tribunal as responsible tribunal**

Clause 11 provides clarification in relation to declaring the State Administrative Tribunal (SAT) as the responsible tribunal in clause 5. The National Law uses the terminology appeal and appellable decision, in relation to matters that a responsible tribunal has jurisdiction over. Under the SAT legislation, these terms have different meanings, and the matters to which the National Law is referring are instead called a review or reviewable decision under SAT Law. Therefore, the provision clarifies that a reference to an appeal against a decision to SAT in the National Law, is a reference to a review of the decision as provided under the SAT Act.

### **Clause 12 Restriction on retail sale of contact lenses**

Clause 12 provides that a person must not sell by retail contact lenses, whether or not they have been designed to correct, remedy or relieve any refractive abnormality or defect of sight, unless the contact lenses have been prescribed for the purchaser by a medical practitioner or optometrist.

If a person sells by retail contact lenses without a prescription from a medical practitioner or optometrist then the penalty is a fine of \$15,000.

### **Clause 13 – Regulations**

Clause 13 provides for the making of regulations under this Act. Regulations will be developed if there are matters that require further administrative regulations on how a matter will be managed. Only those issues that require regulations that are permitted will be made to give effect to this Act.

### **Clause 14 – Review of Act**

Clause 14(1) provides for the review of this Act after 5 years. The operation and effectiveness of the Act will be reviewed at that time.

Clause 14(2) provides that the Minister is to prepare a report based on the review and for the report to be laid before each House of Parliament. The report is to be tabled no later than 12 months after the review was due.

## **Part 4 – Repeals, transitional and saving provisions**

### **Division 1 – Repeals**

#### **Clause 15 – Acts repealed**

Clause 15 provides for the repeal of the Western Australian health practitioner Acts which will no longer apply once each of the respective professions is covered by the National Law.

#### **Clause 16 – Codes of practice, regulations and rules repealed**

Clause 16(1) provides for the repeal of Western Australian codes of practice, which will no longer be required once the professions are covered by the National Law. The National Law provides for the making of codes of practice under section 39.

Clause 16(2) provides for the repeal of regulations made under Western Australia Law, which will no longer be required because the National Law provides for the making of national regulations under section 245.

Clause 16(3) provides for the repeal of the dental rules in Western Australia as they will no longer be required.

### **Division 2 – Transitional and saving provisions**

#### **Clause 17 – Term used: former Act**

Clause 17 provides that the terms used in this division mean the terms as defined in the former health practitioner acts, which will be repealed as listed in section 15 when each of the professions is covered by the National Law.

#### **Clause 18 - Complaints and matters being dealt with on the participation day**

Clause 18(1) provides some clarity on how complaints will be dealt with on participation day.

Clause 18(1) (a) provides that clause 18 applies to a complaint about a health practitioner being dealt with before the National Law comes into effect regarding a competency, disciplinary or impairment matter being dealt with under a repealed health practitioner act, with the exception of the *Dental Act 1939* or the *Pharmacy Act 1964*.

Clause 18(1) (b) and (c) provides that clause 18 applies to a matter being dealt with under the *Dental Act 1939* section 30 or the *Pharmacy Act 1964* section 34(2).

Clause 18(2) provides that the complaint will be dealt with by the National Board for the relevant health profession. References to a Western Australian health practitioner registration board under a repealed health practitioner Act will be read as a reference to the National Board.

The complaint or matter will continue to be dealt with by the National Board under the repealed health practitioner Act under which the complaint or matter was originally made,, as if that legislation had not been repealed.

Any committees dealing with a complaint or matter will continue managing the complaint or matter under the repealed health practitioner Act as if it was not repealed.

An investigator appointed under a health practitioner Act will continue to investigate the complaint or matter as if the health practitioner Act had not been repealed and the appointment continued.

#### **Clause 19 - Annual reports for part of a year**

Clause 19(1) provides that Western Australian health practitioner boards are required to draft and submit an annual report as would have been required under the repealed health practitioner acts, but only for the period from the last annual report to when the National Law becomes operational in WA.

Clause 19(2) provides that despite the former health practitioner Act having been repealed and Part 12 of the *Health Practitioner Regulation National Law (Western Australia)*, the Western Australian health practitioner boards continue for the purpose of providing the annual report in subsection (1) and are entitled to assistance from the National Agency and its staff in providing those annual reports.

#### **Clause 20 - School dental therapists**

A school dental therapist working in Western Australia before the National Law comes into operation who held registration under the *Dental Act 1939* as a school dental therapist, from the day the National Law commences will hold general registration under the *Health Practitioner Regulation National Law (Western Australia)* as a dental therapist.

#### **Clause 21 – Determination of area of need**

Clause 21 provides for the continuation of an unmet area of need under the *Medical Practitioners Act 2008*. On the day that the National Law commences an unmet area of need determination will continue as if it had been made under section 67(5) of the *Health Practitioner Regulation National Law (Western Australia)* for the medical profession, but will be known as an area of need.

#### **Clause 22 - Transitional regulations**

Clause 22(1) provides that if there is insufficient provision in this Part for dealing with a transitional aspect, the Governor may make regulations prescribing all matters that are required, necessary or convenient concerning the issue.

Clause 22(2) provides that the regulations may provide that certain sections in the *Health Practitioner Regulation National Law (Western Australia)* do not apply or apply with amendments regarding any matter.

Clauses 22(3) and (4) allow for transitional regulations to have retrospective effect but only from as early as the date section 2 commenced.

Clause 22(5) provides that clause 22(3) may not operate to the detriment of any person other than the State.

Clause 22(5) provides that regulations under this clause may only be made before 1 July 2013.

## **Part 5 – Consequential amendments**

### **Division 1 – *Adoption Act 1994* amended**

#### **Clause 23 – Act amended**

Clause 23 is self explanatory.

#### **Clause 24 – Section 4 amended**

Clause 24 amends the definition of medical practitioner to reflect that it means a person who is registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession instead of under the former *Medical Practitioners Act 2008*.

### **Division 2 – *Alcohol and Drug Authority Act 1974* amended**

#### **Clause 25 – Act amended**

Clause 25 is self explanatory.

#### **Clause 26 – Section 4 amended**

Clause 26 amends the definition of medical practitioner to reflect that it means a person who is registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession instead of under the former *Medical Practitioners Act 2008*.

### **Division 3 – *Anatomy Act 1930* amended**

#### **Clause 27 – Act amended**

Clause 27 is self explanatory.

**Clause 28 – Section 2 amended**

Clause 28 amends the definition of medical practitioner to reflect that it means a person who is registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession instead of under the former *Medical Practitioners Act 2008*.

**Division 4 – *Bail Act 1982* amended**

**Clause 29 – Act amended**

Clause 29 is self explanatory.

**Clause 30 – Schedule 1 amended**

Clause 30 amends the definition of medical practitioner to reflect that it means a person who is registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession instead of under the former *Medical Practitioners Act 2008*.

**Division 5 – *Biosecurity and Agriculture Management Act 2007* amended**

**Clause 31 – Act amended**

Clause 31 is self explanatory.

**Clause 32 – Section 6 amended**

Clause 32 amends part of the definition of veterinary chemical product where it refers to a pharmaceutical chemist who was registered under the former Pharmacy Act 1964 and amends it to a person who is registered under the *Health Practitioner Regulation National Law (Western Australia)* in the pharmacy profession.

**Clause 33 – Section 118 amended**

Clause 33 amends the reference in section 118(1)(m) to a pharmaceutical chemist to reflect that it is a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the pharmacy profession.

**Division 6 – *Births, Deaths and Marriages Registration Act 1998* amended**

**Clause 34 – Act amended**

Clause 34 is self explanatory.

**Clause 35 – Section 4 amended**

Clause 35 amends the definition of doctor to reflect that it means a person who is registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession instead of under the former *Medical Practitioners Act 2008*.

**Division 7 – Blood Donation (Limitation of Liability) Act 1985 amended**

**Clause 36 – Act amended**

Clause 36 is self explanatory.

**Clause 37 – Section 3 amended**

Clause 37 amends the definition of medical practitioner to reflect that it means a person who is registered under the Health Practitioner Regulation National Law (Western Australia) in the medical profession instead of under the former *Medical Practitioners Act 2008*.

**Clause 38 – Section 11 amended**

Clause 38 replaces the paragraph to reflect that the person is registered under the *Health Practitioner Regulation National Law (Western Australia)* in the nursing or midwifery profession and that their name is entered on Division 1 of the Register of Nurses under the Law as a registered nurse and employed for the taking of tissue instead of under the former *Nurses and Midwives Act 2006*.

**Division 8 – Children and Community Services Act 2004 amended**

**Clause 39 – Act amended**

Clause 39 is self explanatory.

**Clause 40 – Section 124A amended**

Clause 40 deletes the definitions of doctor, midwife and nurse and inserts new definitions.

A doctor is now a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession.

A midwife is now a person registered under the *Health Practitioner Regulation National Law (Western Australia)* and their name is entered on the Register of Midwives under that Law.

Nurse now means a person who is registered under the *Health Practitioner Regulation National Law (Western Australia)* in the nursing and midwifery profession whose name is entered on the Register of Nurses kept under that Law.

**Division 9 – Civil Liability Act 2002 amended**

**Clause 41 – Act amended**

Clause 41 is self explanatory.

**Clause 42 – Section 5PA amended**

Clause 42(1) amends the definition of health professional for ten professions that will be registered under the *Health Practitioner Regulation National Law (Western Australia)* and then includes a similar provision in Clause 42(2) to cover those health professions that will be included in the National Law from 1 July 2012.

Clause 42(2) also includes a reference to other health professionals such as a medical radiation technologist, occupational therapist and other persons who practise a discipline or profession in the health area that involves the application of a body of learning that enables them to practise in that profession. This clause will not become operational from 1 July 2010.

**Clause 43 – Section 5AB amended**

Clause 44 amends part of the definition of medical qualifications to read registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession.

**Division 10 – Constitution Acts Amendment Act 1899 amended**

**Clause 44 – Act amended**

Clause 44 is self explanatory

**Clause 45 – Section V Part 3 amended**

Clause 45 amends schedule V in Part 3 by inserting or replacing current references to the former health practitioner boards to National Boards that will be established under the *Health Practitioner Regulation National Law (Western Australia)*.

The four health professions to join the National Law from 1 July 2012 have also been included but those references will not become operational at the same time as the first ten professions.

**Division 11 – Coroners Act 1996 amended**

**Clause 46 – Act amended**

Clause 46 is self explanatory.

**Clause 47 – Section 3 amended**

Clause 47 amends the definition of doctor to reflect that it means a person registered under the *Health Practitioner Regulation National Law (Western Australia)* instead of under the former *Medical Practitioners Act 2008*.

**Division 12 – Corruption and Crime Commission Act 2003 amended**

**Clause 48 – Act amended**

Clause 48 is self explanatory.

**Clause 49 – Section 54 amended**

Clause 49 amends the definition of medical practitioner to reflect that it means a person who is registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession instead of under the former *Medical Practitioners Act 2008*.

Clause 49 also amends the definition of a registered nurse to reflect that the person is registered under the *Health Practitioner Regulation National Law (Western Australia)* in

the nursing or midwifery profession and their name is entered on Division 1 of the Register of Nurses under the Law as a registered nurse instead of under the former *Nurses and Midwives Act 2006*.

### **Division 13 – Court Security and Custodial Services Act 1999 amended**

#### **Clause 50 – Act amended**

Clause 50 is self explanatory.

#### **Clause 51 – Section 3 amended**

The definition of doctor is amended to reflect that it means a person who is registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession instead of under the former *Medical Practitioners Act 2008*.

The definition of nurse is amended to reflect that the person is registered under the *Health Practitioner Regulation National Law (Western Australia)* in the nursing or midwifery profession whose name is entered on Division 1 of the Register of Nurses.

### **Division 14 – Cremation Act 1929 amended**

#### **Clause 52 – Act amended**

Clause 52 is self explanatory.

#### **Clause 53 – Section 2 amended**

Clause 53 amends the definition of medical practitioner to reflect that it means a person who is registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession instead of under the former *Medical Practitioners Act 2008*.

### **Division 15 – Criminal Injuries Compensation Act 2003 amended**

#### **Clause 54 – Act amended**

Clause 54 is self explanatory.

#### **Clause 55 – Section 3 amended**

Clause 55 amends the definition of health professional in section 3 to reflect that the person is registered under the *Health Practitioner Regulation National Law (Western Australia)* in:

- the dental profession and has their name entered on the Dentists Division of the Register of Dental Practitioners or under a law that is substantially the same in another place;
- the medical profession or under a law that is substantially the same in another place;
- the psychology profession or under a law that is substantially the same in another place.

This updates the definition so that references to the former health practitioner acts are deleted and the definition is consistent with the terms used in the National Law. The words “law that is substantially the same in another place” means that it could be a law of another country as long as it is essentially the same.

#### **Division 16 – *Criminal Investigation (Identifying People) Act 2002* amended**

##### **Clause 56 – Act amended**

Clause 56 is self explanatory.

##### **Clause 57 – Section 52 amended**

Clause 57 deletes the definitions of dentist, doctor and nurse and inserts new definitions to reflect that the person is no longer registered under the former health practitioner acts, and is registered as follows:

- a dentist is a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the dental profession and their name is entered on the Dentist Division of the Register of Dental Practitioners;
- doctor is a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession; and
- a nurse is a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the nursing and midwifery profession.

#### **Division 17 – *Criminal Investigation Act 2006* amended**

##### **Clause 58 – Act amended**

Clause 58 is self explanatory.

##### **Clause 59 – Section 73 amended**

Clause 59 deletes the definitions of dentist, doctor and nurse and inserts new definitions to reflect that the person is no longer registered under the former health practitioner acts, and is registered as follows:

- a dentist is a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the dental profession and their name is entered on the Dentist Division of the Register of Dental Practitioners;
- doctor is a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession; and
- a nurse is a person registered under the *Health Practitioner Regulation National Law (Western Australia)* and their name is entered on Division 1 of the Register of Nurses under that Law as a registered nurse.

#### **Division 18 – *Criminal Property Confiscation Act 2000* amended**

##### **Clause 60– Act amended**

Clause 60 is self explanatory.

**Clause 61 – Glossary amended**

Clause 61 updates the definition of medical practitioner to read that a medical practitioner is a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession instead of under the former *Medical Practitioners Act 2008*.

**Division 19 – *Diamond (Argyle Diamond Mines Joint Venture) Agreement Act 1981* amended****Clause 62 – Act amended**

Clause 62 is self explanatory.

**Clause 63 – Section 14 amended**

Clause 63 updates the definition of medical practitioner to read that a medical practitioner is a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession instead of under the former *Medical Practitioners Act 2008*.

**Division 20 – *Firearms Act 1973* amended****Clause 64 – Act amended**

Clause 64 is self explanatory.

**Clause 65 – Section 4 amended**

Clause 65 amends the definition of medical practitioner so that it means a person who is registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession instead of under the former *Medical Practitioners Act 2008*.

**Clause 66 – Section 23B amended**

Clause 66(1) amends the definition of health professional so that in section 23B(3) paragraph (b) it means a person who is registered under the *Health Practitioner Regulation National Law (Western Australia)* in the psychology profession instead of under the former *Psychology Act 2005*.

Clause 66(2) amends the reference to a registered nurse in the subsection relating to health professional to reflect that in section 23B(3) paragraph (c) it means a person who is registered under the *Health Practitioner Regulation National Law (Western Australia)* in the nursing and midwifery profession instead of under the former *Nurses and Midwives Act 2006* and their name is entered on Division 1 of the Register of Nurses as a registered nurse.

**Division 21 – *Gender Reassignment Act 2000* amended****Clause 67 – Act amended**

Clause 67 is self explanatory.

**Clause 68 – Section 3 amended**

Clause 68 amends the definition of medical practitioner so that it means a person who is registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession instead of under the former *Medical Practitioners Act 2008*.

**Division 22 – Health Act 1911 amended****Clause 69 – Act amended**

Clause 69 is self explanatory.

**Clause 70 – Section 3 amended**

Clause 70(1) deletes the definitions of medical practitioner, midwife and nurse practitioner.

Clause 70 (2) updates the definition of medical practitioner to read that a medical practitioner is a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession.

Clause 70 (2) also updates the definition of midwife to reflect that a midwife is a person registered under the *Health Practitioner Regulation National Law (Western Australia)* and their name is entered on the Register of Midwives.

Clause 70 (2) also updates the definition of a nurse practitioner to mean a nurse practitioner is a person who is registered under the *Health Practitioner Regulation National Law (Western Australia)* and whose name is entered on the Register of Nurses as a qualified nurse practitioner.

**Clause 71 – Section 246A amended**

Clause 71 updates the reference to the *Health Practitioner Regulation National Law (Western Australia)* and deletes the obsolete reference.

**Clause 72 – Section 246D amended**

Clause 72 updates the reference to a medical practitioner under the former *Medical Practitioners Act 2008* to a person who is registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession.

**Clause 73 – Section 331 inserted**

Clause 73 inserts a definition for dentist, school dental service and school dental therapist in Part XIII (Child health and preventative medicine) of the *Health Act 1911*.

When the *Health Practitioner Regulation National Law (Western Australia)* is operational it will repeal the former *Dental Act 1939*. The school dental service was formerly established as part of the *Dental Act 1939* and in order for the service to continue the relevant provisions have been inserted into the *Health Act 1911*.

Definitions have been inserted in this Part as follows:

- a dentist is a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the dental profession and whose name is entered on the Dentist Division of the Register of Dental Practitioners;

- the school dental service is the service established under section 337A of the Health Act; and
- a school dental therapist is a person registered under the *Health Practitioner Regulation National Law (Western Australia)* as a dental therapist holding general registration.

#### **Clause 74 – Section 337 amended**

Clause 74 deletes references to “duly registered” and also replaces “Health or by the local government” with “Health”.

Local governments do not employ school dental therapists or dentists in relation to the examination of school children for dental care. The term “duly registered” is no longer used.

#### **Clause 75 – Section 337A amended**

Clause 75 deletes section 337A(5) as it will no longer be applicable.

#### **Division 23 – Health Legislation Administration Act 1984 amended**

##### **Clause 76 – Act amended**

Clause 76 is self explanatory.

##### **Clause 77 – Section 6 amended**

Clause 77 updates the reference to reflect that a person must not be appointed to hold or act in a position unless the person is registered as a medical practitioner under the *Health Practitioner Regulation National Law (Western Australia)* instead of the former *Medical Practitioners Act 2008*. The positions are specific and require medical practitioners to be appointed. One is the position of Chief Psychiatrist and the other is the position of Executive Director Personal Health Services.

#### **Division 24 – Health Professionals (Special Events Exemption) Act 2000 amended**

##### **Clause 78 – Act amended**

Clause 78 is self explanatory.

##### **Clause 79 – Section 3 amended**

Clause 79(1) updates the definition of *Health Registration Act* and removes references to the repealed health practitioner acts as well as inserting a reference to the *Health Practitioner Regulation National Law (Western Australia)*. It retains the references to the *Medical Radiation Technologists Act 2006* and the *Occupational Therapists Act 2006* which are two of the four professions to come under the National Law from 1 July 2012.

Clause 79(2) will become operational from 1 July 2012 and updates the section to remove references to acts which will be repealed at that time. This clause will not be enacted when the *Health Practitioner Regulation National Law (Western Australia)* becomes operational in 2010.

## **Division 25 – Health Services (Conciliation and Review) Act 1995 amended**

### **Clause 80– Act amended**

Clause 80 amends the title of the Act to reflect the new title of the Act currently in the Legislative Assembly of Parliament.

### **Clause 81 – Section 11 is amended**

Clause 81 deletes the words “or 46” as the section has been deleted because it no longer applies to the process.

### **Clause 82 – Section 31 replaced**

Clause 82 inserts a new section 31 to provide for the process as set out in section 150 of the National Law as contained in the Schedule to the *Health Practitioner Regulation National Law (Western Australia)*. After the National Board and the Office of Health Review have consulted in relation to a complaint, or an element of a complaint, if the complaint, or element of the complaint is not managed under the National Law by the National Board for that particular profession, then the Office of Health Review may deal with the complaint, or the element of the complaint.

If after consulting together, the National Board and the Office of Health Review cannot decide on how to deal with a complaint then the most serious action proposed by either party must be taken.

Clause 82 inserts a new section 32A which provides that the Director of the Office of Health Review is to advise the complainant that the National Board is dealing with the complaint, or an element of the complaint under section 150 of the National Law within the prescribed time of 28 days.

### **Clause 83 – Section 33 amended**

Clause 83 deletes the reference to section 31 which has been repealed as it is no longer applicable. The Office of Health Review and the relevant National Board will consult on how a complaint or an element of a complaint will be managed. This clause deletes the reference to registration board as this no longer applies.

### **Clause 84 – Section 34 amended**

Clause 84(1) deletes the word complaint and inserts words to reflect that if the relevant National Board is not dealing with the complaint or an element of the complaint then the Director of the Office of Health Review must decide what action to take concerning the matter.

Clause 84(2) makes amendments to the *Health Services (Complaints) Act 1995* if it has not already been amended by the *Health and Disability Services Legislation Amendment Act 2010* that is in the Legislative Assembly of Parliament.

If the *Health Services (Complaints) Act 1995* has not already been amended by the *Health and Disability Services Legislation Amendment Act 2010*, clause 84(3) makes the same amendments in the *Health and Disability Services Legislation Amendment Act 2010* so that that Act will then make those amendments to the *Health Services (Complaints) Act 1995*.

**Clause 85 – Section 35 amended**

Clause 85 deletes a paragraph that no longer applies once the National Law comes into effect.

**Clause 86 – Section 43 amended**

Clause 86 deletes this sub section because it no longer applies. If the Director of the Office of Health Review has management of a complaint, or an element of a complaint it will not be referred back to the relevant National Board. The relevant National Board and the Director of the Office of Health Review would have already consulted on the management of the issue and a decision would have been made on the action that should be taken.

**Clause 87 – Section 44 amended**

Clause 87 deletes a sub section that is no longer applicable.

**Clause 88 – Section 46 deleted**

Clause 88 deletes section 46 as it is no longer applicable as a complaint, or an element of a complaint will be managed under section 150 of the *Health Practitioner Regulation National Law (Western Australia)*.

**Clause 89 Section 49 deleted**

Clause 89 deletes section 49 as it is no longer applicable.

**Clause 90 – Sections 53, 54 and 55 deleted**

Clause 90 deletes sections that are no longer applicable.

**Clause 91 – Section 71 amended**

Clause 91 deletes a reference to sub section 44(3) that has been repealed because it no longer applies. Clause 87 deletes section 44(3)

**Clause 92 – Schedule 1 amended**

Clause 92(1), (2) and (3) delete references to the repealed health practitioner acts and the corresponding health practitioner boards and inserts the *Health Practitioner Regulation National Law (Western Australia)* and the title of new National Boards established under that Law.

Clause 92(4) deletes references to two health practitioner boards that will be included in the National Law in 2012. This clause will not become operational in 2010.

Clause 92(5) inserts references to the four health professions that will be included in the National Law in 2012.

**Division 26 – *Hospitals and Health Services Act 1927* amended****Clause 93– Act amended**

Clause 93 is self explanatory.

**Clause 94 – Section 2 amended**

Clause 94 updates the definition of practitioner to reflect that it is:

- a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession.
- another person who practises in the field of health or medicine and is declared by the Minister under the *Hospitals and Health Services Act* to be a practitioner for the purposes of the Act.

**Division 27 – *Human Reproductive Technology Act 1991* amended**

**Clause 95 – Act amended**

Clause 95 is self explanatory.

**Clause 96 – Section 3 amended**

Clause 96 amends the definition of medical practitioner so that it means a person who is registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession instead of under the former *Medical Practitioners Act 2008*.

**Division 28 – *Human Tissue and Transplant Act 1982* amended**

**Clause 97 – Act amended**

Clause 97 is self explanatory.

**Clause 98 – Section 3 amended**

Clause 98 amends the definition of medical practitioner so that it means a person who is registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession instead of under the former *Medical Practitioners Act 2008*.

**Division 29 – *Industrial Relations Act 1979* amended**

**Clause 99 – Act amended**

Clause 99 is self explanatory.

**Clause 100 – Section 72B amended**

Clause 100 amends the definition of medical practitioner so that it means a person who is registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession instead of under the former *Medical Practitioners Act 2008*.

**Clause 101 – Section 97WR amended**

Clause 101 amends the definition of medical practitioner so that it means a person who is registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession instead of under the former *Medical Practitioners Act 2008*.

**Division 30 – *Juries Act 1957* amended****Clause 102 – Act amended**

Clause 102 is self explanatory.

**Clause 103– Second Schedule amended**

Clause 103 updates the Second Schedule Part II under the heading Health so that persons registered under the *Health Practitioner Regulation National Law (Western Australia)* if practising in the following professions are excused from jury duty:

- Chiropractic profession
- Dentists in the dental profession whose name is entered on the Dentists Division of the Register of Dental Practitioners
- Medical profession
- Nursing and midwifery profession
- Osteopathy profession
- Pharmacy profession if actually in business whether as a principal or manager for a principal
- Physiotherapy profession
- Psychology profession
- Veterinary surgeons registered under the Veterinary Surgeons Act 1960 if actually practising.

**Division 31 – *Liquor Control Act 1988* amended****Clause 104 – Act amended**

Clause 104 is self explanatory.

**Clause 105 – Section 6 amended**

For the purposes of when liquor is sold or administered for medicinal purposes, clause 105 updates references, to pharmacists, dentists and medical practitioners to, respectively:

- a pharmacist registered under the Health Practitioner Regulation National Law (Western Australia) in the pharmacy profession;
- a dentist registered under the Health Practitioner Regulation National Law (Western Australia) whose name is on the Dentists Division of the Register of Dental Practitioners; or
- a person registered in the medical profession under the Health Practitioner Regulation National Law (Western Australia).

**Division 32 – *Magistrates Court Act 2004* amended****Clause 106 – Act amended**

Clause 106 is self explanatory.

**Clause 107 – Schedule 1 amended**

Clause 107 deletes the reference to the repealed Act and updates the reference to two persons registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession

**Division 33 – *Medical Radiation Technologists Act 2006* amended**

**Clause 108 – Act amended**

Clause 108 is self explanatory.

**Clause 109 – Section 3 amended**

Clause 109 amends the definition of medical practitioner so that it means a person who is registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession instead of under the former *Medical Practitioners Act 2008*.

**Division 34 – *Mental Health Act 1996* amended**

**Clause 110 – Act amended**

Clause 110 is self explanatory.

**Clause 111 – Section 3 amended**

Clause 111(1) deletes the definitions of medical practitioner, psychiatrist and psychologist.

Clause 111(2) inserts a new definition so that:

- a medical practitioner means a person who is registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession instead of under the former *Medical Practitioners Act 2008*;
- a psychiatrist is a person whose name is entered on the register of specialist psychiatrists kept by the Medical Board of Australia under the *Health Practitioner Regulation National Law (Western Australia)*;
- psychologist means a person who is registered under the *Health Practitioner Regulation National Law (Western Australia)* in the psychology profession instead of under the former *Psychologists Act 2005*.

**Clause 112 – Section 17 amended**

Clause 112 deletes section 17 as the Medical Board of Western Australia will no longer exist once the *Health Practitioner Regulation National Law (Western Australia)* becomes operational and the *Medical Practitioners Act 2008* is repealed.

**Clause 113 – Section 19 amended**

Clause 113(1) deletes the reference to the *Nurses and Midwives Act 2006* which will be repealed and inserts the *Health Practitioner Regulation National Law (Western Australia)* under which a person in the nursing and midwifery profession is registered.

Clause 113(2) will apply after 2012 when the *Health Practitioner Regulation National Law (Western Australia)* will apply to four other professions which will include occupational therapists.

**Division 35 – *Miner's Phthisis Act 1922* amended****Clause 114 – Act amended**

Clause 114 is self explanatory.

**Clause 115 – Section 8 amended**

Clause 115(1) deletes the part of section 8 (2) that refers to a practitioner registered under the former *Medical Practitioners Act 2008* and amends it so that it means a person who is registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession as a medical practitioner.

Clause 115(3) deletes the part of section 8(3) that refers to 2 practitioners registered under the former *Medical Practitioners Act 2008* and amends it so that it means a person who is registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession.

**Division 36 – *Minimum Conditions of Employment Act 1993* amended****Clause 116 – Act amended**

Clause 116 is self explanatory.

**Clause 117 – Section 3 amended**

Clause 117 amends the definition of medical practitioner so that it means a person who is registered under the *Health Practitioner Regulation National Law (Western Australia)* and is entitled to practise in the medical profession instead of under the former *Medical Practitioners Act 2008*.

**Division 37 – *Misuse of Drugs Act 1981* amended****Clause 118 – Act amended**

Clause 118 is self explanatory.

**Clause 119– Section 3 amended**

Clause 119(1) deletes the definitions of dentist, medical practitioner, and nurse practitioner.

Clause 119(2) inserts new definitions so that:

- dentist means a person who is registered under the *Health Practitioner Regulation National Law (Western Australia)* in the dental profession and whose name is entered on the Dentist Division of the Register of Dental Practitioners instead of under the former *Dental Act 1939*;
- medical practitioner means a person who is registered under the *Health Practitioner Regulation National Law (Western Australia)* instead of under the former *Medical Practitioners Act 2008*;
- nurse practitioner means a person registered under the *Health Practitioner Regulation National Law (Western Australia)* whose name is entered on the Register of Nurses as being qualified to practise as a nurse practitioner instead of under the former *Nurses and Midwives Act 2006*.

**Division 38 – Oaths, Affidavits and Statutory Declarations Act 2005 amended**

**Clause 120 – Act amended**

Clause 120 is self explanatory.

**Clause 121 – Schedule 2 amended**

Clause 121(1) amends the references to registered health practitioner and to the former health practitioner Acts which will be repealed.

Clause 121(2) inserts a new schedule to reflect that nine of the professions under the *Health Practitioner Regulation National Law (Western Australia)*, namely chemist, chiropractor, dentist, doctor, nurse, optometrist, physiotherapist, podiatrist and psychologist are able to witness certain instruments namely, statutory declarations.

**Division 39 – Occupational Therapists Act 2005 amended**

**Clause 122 – Act amended**

Clause 122 is self explanatory.

**Clause 123 – Section 3 amended**

Clause 123 updates the definition of medical practitioner so that it means a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession instead of under the former *Medical Practitioners Act 2008* which will be repealed.

**Division 40 – Poisons Act 1964 amended**

**Clause 124 – Act amended**

Clause 124 is self explanatory.

**Clause 125 – Section 5 amended**

Clause 125 (1) deletes the definitions of dentist, medical practitioner, nurse practitioner and pharmaceutical chemist.

Clause 125(2)

Updates the definition of dentist to reflect that the person is registered under the *Health Practitioner Regulation National Law (Western Australia)* in the dental profession and their name is entered on the Dentists Division of the Register instead of under the former *Dental Act 1939*.

Introduces a new definition of endorsed health practitioner for persons who are endorsed by a National Board to administer obtain, possess, prescribe, sell, supply or use a scheduled medicine or class of scheduled medicine. The National Board of each profession recommends to the Australian Health Workforce Ministerial Council (Ministerial Council) that a particular class of health practitioner be approved in relation to scheduled medicines. The Ministerial Council may approve the endorsement. However, the relevant health practitioner cannot obtain, possess, prescribe, sell, supply or use the scheduled

medicine or medicines before the approval is granted and until they have obtained an authorisation at a WA state level under the *Poisons Act 1964 (WA)*..

This clause updates the definition of medical practitioner so that it means a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession

This clause inserts a definition for medicine and limits the relevant scheduled medicines that can be obtained, possessed, prescribed, sold, supplied or used to those from schedules 2, 3, 4, or 8.

This clause updates the definition of nurse practitioner to one registered under *the Health Practitioner Regulation National Law (Western Australia)*.

This clause updates the definition of pharmacist to that under the *Health Practitioner Regulation National Law (Western Australia)*.

The former health practitioner acts will be repealed. The health practitioners listed above were registered under those acts and the new definitions reflect and are consistent with the National Law.

#### **Clause 126 – Section 8 amended**

Clause 126 amends section 8(3)(g) to reflect that the person will be nominated for appointment by the Pharmacy Board of Australia which has been established under the *Health Practitioner Regulation National Law (Western Australia)* to sit on the Poisons Advisory Council.

The inclusion of the word “and” after each paragraph (a), (b), (c) (d), (e) and (f) aids the grammatical structure of the provision.

#### **Clause 127 – Section 20 amended**

Clause 127 deletes the classification of substances into respective Schedules and replaces it with heading and descriptors of the substances within the Schedules that reflect the national standard for the uniform scheduling of drugs and poisons (the SUSDP).

“Schedule 1” - This schedule is deliberately blank. A substance of plant origin may be included in the future.

“Schedule 2 – Pharmacy medicines” include medicines that have a therapeutic use for both humans and animals that may require advice from a pharmacist before use.

“Schedule 3 – Pharmacist medicines” include medicines that have a therapeutic use for both humans and animals which require advice from a health professional (or veterinarian) but are normally available without prescription from a pharmacy.

“Schedule 4 – Prescription only medicines” include medicines that have a therapeutic use for both humans and animals which are only available upon the presentation of a prescription issued under the supervision of an endorsed health practitioner or veterinarian.

“Schedule 5 – Low risk poisons” include substances that have a low risk of harm that can be reduced through simple warnings, appropriate packaging and labelling.

“Schedule 6 – Moderate risk poisons” include substances that have a moderate risk of harm that can be reduced through distinctive warnings, packaging, storage and labelling.

“Schedule 7 – Dangerous poisons” include substances that have a high risk of harm at low exposure. Such substances require special precautions in the manufacture, handling and/or use.

“Schedule 8 – Controlled medicines” include substances that have a therapeutic use for both humans and animals. The availability of these substances requires strict restrictions on the manufacture, supply, distribution, possession and use to reduce dependency, abuse or misuse.

“Schedule 9 – Prohibited poisons” include substances the manufacture, possession, sale or use of is prohibited except in limited approved circumstances

#### **Clause 128 – Section 23 amended**

Clause 128 replaces sections 23(2) and (3).

Sub section 23(2) provides for the endorsed health practitioner and veterinary surgeon in the lawful practice of his or her profession and under regulation to possess, use, supply, sell or prescribe medicines (schedules 2, 3, 4 or 8)

Sub section 23(3A) provides for the authorisation (above) to be subject to further conditions and restrictions by way of regulation or notice given by the CEO (of the Department of Health) under section 64(2)(ha).

Section 64(2)(ha) provides for the CEO to issue a notice to a particular endorsed health practitioner. The issuing of a notice may revoke the authority for a person to possess, use, supply, sell or prescribe medicines.

Sub section 23(3B) provides for the CEO to notify the appropriate National Board of the issuing of a notice to a particular endorsed health practitioner.

Sub section 3 provides clarification that a poison cannot be sold in an open shop without a license. This clause restricts the sale of poisons to the regulated endorsed health practitioners, veterinary surgeons or those who possess a license.

#### **Clause 129 – Section 24 amended**

Clause 129 removes reference to a licence being issued for poisons to be manufactured at a pharmacy. Pharmacists may still produce mixtures for therapeutic purposes. However; the process of manufacturing involves producing batches, testing, packaging labelling and storing of bulk quantities.

#### **Clause 130 – Section 26 amended**

Clause 130 provides for the removal of the requirement for a pharmacist in a pharmacy to possess a licence in order to sell by retail any poison. The selling of poisons by pharmacists will be regulated elsewhere within the *Poisons Act 1964*.

#### **Clause 131 – Section 30 amended**

Clause 131 amends sections 30(1) & (2) - reference to a “pharmaceutical chemist” is replaced by the term “pharmacist”.

Section 30(3) deletes the definition of “friendly society” and replaces it with the definition of a company under the *Corporations Act 2001* (Cwlth) that has as its main object to carry on the business of a pharmacy.

**Clause 132 – Section 50 amended**

Clause 132 replaces the term pharmaceutical chemist with the word pharmacist.

**Clause 133 – Section 55C amended**

Clause 133 amends the heading and the text to include reference to the *Health Practitioner Regulation National Law (Western Australia)*.

**Clause 134 – Section 61 replaced**

Clause 134 provides for the avenues a court or bodies may use to obtain evidentiary proof that a person holds a licence, permit or to authority to act under the *Poisons Act*.

**Clause 135 – Section 64 amended**

Clause 135 removes mention of “drugs of addiction or specified drugs or both” and inserts the term “medicine” used in the *Health Practitioner Regulation National Law (Western Australia)*.

**Division 42 – *Prisons Act 1981* amended**

**Clause 136 – Act amended**

Clause 136 is self explanatory.

**Clause 137– Section 3 amended**

Clause 137 updates the definition of a medical practitioner so that it is a person registered under the *Health Practitioner Regulation National Law (Western Australia)* as a medical practitioner instead of under the former *Medical Practitioners Act 2008*.

**Clause 138 – Section 46 amended**

Clause 138 amends part of section 46 to reflect that the person must be a medical practitioner registered under the *Health Practitioner Regulation National Law (Western Australia)* instead of under the former *Medical Practitioners Act 2008* which will be repealed.

**Division 43 – *Prostitution Act 2000* amended**

**Clause 139 – Act amended**

Clause 139 is self explanatory.

**Clause 140 – Section 29 amended**

Clause 140 updates the definition of medical practitioner and registered nurse to a person who is registered under the *Health Practitioner Regulation National Law (Western Australia)* in, respectively:

- the medical profession; or
- the nursing and midwifery profession as a registered nurse whose name is entered on Division 1 of the Register of Nurses.

The former *Medical Practitioners Act 2008* and the *Nurses and Midwives Act 2006* will be repealed.

#### **Division 44 – Queen Elizabeth II Medical Centre Act 1966 amended**

##### **Clause 141 – Act amended**

Clause 141 is self explanatory.

##### **Clause 142 – Section 16 amended**

Clause 142 updates the definition of medical practitioner in section 16 to a person who is registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession instead of under the former *Medical Practitioners Act 2008* which will be repealed.

#### **Division 45 – Radiation Safety Act 1975 amended**

##### **Clause 143 – Act amended**

Clause 143 is self explanatory.

##### **Clause 144 – Section 4 amended**

Clause 144 provides that the definition for medical radiation technologist is deleted. New definitions are inserted to provide for changes made by the implementation of the *Health Practitioner Regulation National Law (Western Australia)*.

Board means the Medical Radiation Practice Board of Australia established under the National Law and medical radiation practitioner means a person registered under that Law in the medical radiation practice profession.

Medical radiation technology is defined to mean one of the following: medical imaging technology, nuclear medicine technology or radiation therapy.

These terms are consistent with the *Health Practitioner Regulation National Law (Western Australia)*.

##### **Clause 145 – Section 13 amended**

Clause 145 provides for an amendment to the composition of the Radiological Council. A medical radiation practitioner will sit as one of the members appointed by the Governor in WA.

##### **Clause 146 – Section 24A amended**

Clause 146 deletes the reference to medical radiation technologist and updates the reference to medical radiation practitioner which is a protected title under the National *Health Practitioner Regulation National Law (Western Australia)* in section 113 and consistent with the terms in the *Health Practitioner Regulation National Law (Western Australia)*.

**Clause 147 – Section 26 amended**

Clause 147 (a) deletes the reference to a nurse practitioner and updates the reference to reflect terms used in the *Health Practitioner Regulation National Law (Western Australia)* as a person being registered and qualified to practise as a nurse practitioner.

Clause 147(b) deletes the reference to a code of practice issued under the repealed *Nurses and Midwives Act 2006* and inserts a code or guidelines approved under section 39 of the National law. The National Boards will develop codes and guidelines, which will be approved by the Ministerial Council.

**Clause 148 – Section 27 amended**

Clause 148(1) updates the section to reflect that persons will be registered under the National Law in the chiropractic profession, medical profession, physiotherapy profession and for dentists in the dental profession. This means medical practitioners, chiropractors, physiotherapists and dentists will be able to continue to use radioactive substances or radiation on persons as part of their professional practice.

Clauses 148(2), (3) and (4) delete references to repealed legislation and update references to medical radiation practitioner, which is the title used under the *Health Practitioner Regulation National Law (Western Australia)*.

**Clause 149 – Section 37A inserted**

Clause 149 provides that if there is any conflict or inconsistency between a condition imposed on a medical radiation practitioner and imposed on a licence under the *Radiation Safety Act* then it will have no effect to the extent of the conflict or inconsistency – meaning it will not apply.

A conflict or inconsistency does not exist merely because the condition under the National Law imposes more severe measures or a higher duty or standard in respect of the practice or an aspect of the practice.

**Clause 150 – Section 40A inserted**

Clause 150 provides that the National Board must give written notice of the matters prescribed to the Radiological Council. All of the prescribed matters are of a serious nature such as cancellation of registration, taking of immediate action, suspension or revocation of suspension from the practice of medical radiation technology, imposition, variation or revocation of any condition on registration or the practice of medical radiation technology or the referral of a matter relating to a responsible tribunal (SAT).

The written advice must be provided by the National Board to the Radiological Council within 14 days of one of the above matters occurring.

**Division 46 – Road Traffic Act 1974 amended****Clause 151 – Act amended**

Clause 151 is self explanatory.

**Clause 152 – Section 63 amended**

Clause 152 deletes the references to the *Nurses and Midwives Act 2006* which will be repealed.

The clause inserts an amended provision to cover those health practitioners (medical practitioner, nurse practitioner or dentist) who have prescribed drugs for therapeutic purposes to the accused person. This relates to the driving of vehicles under the influence of drugs.

**Clause 153 – Section 64AB amended**

Clause 153 amends section 64AB(8)(a) to delete references to repealed legislation and inserts an amended provision to provide that it is a defence for the accused person to prove in respect of a drug, or each drug that the drug or drugs are taken on the prescription or administered by a medical practitioner, nurse practitioner or dentist for therapeutic purposes. This applies to driving while impaired by drugs.

**Clause 154 – Section 65 amended**

Clause 154 amends the definition of dentist, medical practitioner, nurse practitioner and registered nurse to be a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in their respective professions.

**Division 47 – Sentencing Act 1995 amended**

**Clause 155 – Act amended**

Clause 155 is self explanatory.

**Clause 156 – Schedule 1 amended**

Clause 156 provides for references to the *Dental Act 1939* and the *Medical Practitioners Act 2008* to be deleted as they will be repealed.

**Division 48 – State Administrative Tribunal Act 2004 amended**

**Clause 157 – Act amended**

Clause 157 is self explanatory.

**Clause 158 – Schedule 1 amended**

Clause 158 is amended to remove the former health practitioner Acts which will be repealed and the new *Health Practitioner Regulation National Law (Western Australia)* is inserted.

Clause 158(2) deletes reference to the *Pharmacy Act 1964* which will also be covered by the *Health Practitioner Regulation National Law (Western Australia)*. Licensing of premises and other regulatory requirements will be covered by the new *Pharmacy Act 2010*.

Clause 158(3) provides for the deletion of two health professions which will be included under the *Health Practitioner Regulation National Law (Western Australia)* in 2012.

**Division 49 – Veterinary Chemical Control and Animal Feeding Stuffs Act 1976 amended**

**Clause 159 – Act amended**

Clause 159 is self explanatory.

**Clause 160 – Section 5 amended**

Clause 160 deletes reference to pharmaceutical chemist in the definition of *veterinary chemical product* and inserts a definition of a person who is registered in the pharmacy profession under the *Health Practitioner Regulation National Law (Western Australia)*.

**Clause 161 – Section 65 amended**

Clause 162(1) deletes section 65(b).

Clause 162(2) (a) deletes the words pharmaceutical chemist and updates the reference to a person registered in the pharmacy profession under the *Health Practitioner Regulation National Law (Western Australia)* as a pharmacist. Pharmaceutical chemist is a protected title under the National Law in section 113 and has been retained in parenthesis.

Clause 162 (b) amends the reference to reflect that if the chief executive of the National Agency under the *Health Practitioner Regulation National Law Bill (Western Australia)* signs a certificate stating that any person on a specific date was not a pharmaceutical chemist then that is evidence of the fact contained in the signed certificate and could be used as proof of that fact.

**Division 50 – *Veterinary Surgeons Act 1960* amended****Clause 162 – Act amended**

Clause 162 is self explanatory.

**Clause 163 – Section 28 amended**

Clause 163 updates the reference to any registered pharmaceutical chemist to a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the pharmacy profession.

**Division 51 – *Workers' Compensation and Injury Management Act 1981* amended****Clause 164 – Act amended**

Clause 164 is self explanatory.

**Clause 166 – Section 5 amended**

Clauses 165(1) and (2) delete definitions of chiropractor and physiotherapist and insert a new definition to refer to a chiropractor and physiotherapist registered in WA under the *Health Practitioner Regulation National Law (Western Australia)* in the chiropractic and physiotherapy professions, respectively.

Clause 165(3) deletes the definition of dentist and updates the definition to a dentist registered in WA whose name is entered on the Dentists Division on the Register of Dental Practitioner under the *Health Practitioner Regulation National Law (Western Australia)* in the dental profession.

Clause 165(4) deletes and updates the definition of medical practitioner to a medical practitioner registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession.

Clause 165(5) deletes and updates the definition of specialist to a medical practitioner registered and residing in WA whose name is entered on the register of specialists kept by the Medical Board of Australia under section 223 under the *Health Practitioner Regulation National Law (Western Australia)*.

**Division 52 – Young Offenders Act 1994 amended**

**Clause 166 – Act amended**

Clause 166 is self explanatory.

**Clause 167 – Section 179 amended**

Clause 167 updates the reference to a medical officer to mean an officer of the Department who is registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession.

**Schedule – Health Practitioner Regulation National Law**

**A hard copy of the Explanatory Memorandum is attached.**

**The hard copy is a copy of the Explanatory Memorandum for the National Law as introduced into the host jurisdiction (Queensland) it is also available at the following website**

<http://www.legislation.qld.gov.au/LEGISLTN/CURRENT/H/HealthPracRAA08.pdf>

**to avoid any typographical errors please access the above site to obtain a true and correct copy**

**Thank you.**