

Hospital and Health Boards Amendment Regulation (No. 2) 2016

Explanatory notes for SL 2016 No. 106

made under the

Hospital and Health Boards Act 2011

General Outline

Short title

Hospital and Health Boards Amendment Regulation (No. 2) 2016

Authorising law

Section 282 of the *Hospital and Health Boards Act 2011*.

Policy objectives and the reasons for them

The *Hospital and Health Boards (Safe Nurse-to-Patient and Midwife-to-Patient Ratios) Amendment Act 2016* (the Amendment Act) amended the *Hospital and Health Boards Act 2011* to implement a legislative framework to enable nurse-to-patient and midwife-to-patient ratios and workload provisions to be mandated in public sector health service facilities.

The Amendment Act provides for minimum nurse-to-patient and midwife-to-patient ratios, and requirements relating to the skills and qualifications of the nurses and midwives included in ratios, to be prescribed by regulation ('a nursing and midwifery regulation'). The Amendment Act also provides for a nursing and midwifery regulation to prescribe where (which Hospital and Health Services and/or facilities) and when ratios will apply.

This approach has been adopted to ensure the legislative framework provides sufficient operational flexibility to enable ratios to be gradually implemented in Hospital and Health Services through a phased implementation model.

The Government has endorsed ratios of one nurse or midwife to four patients (1:4) for morning and afternoon shifts, and one nurse or midwife to seven patients (1:7) for night shifts. The ratios will apply only to prescribed acute adult wards within prescribed public sector health service facilities, from 1 July 2016.

Achievement of policy objectives

To implement safe nurse-to-patient and midwife-to-patient ratios, the regulation amends the *Hospital and Health Boards Regulation 2012* to prescribe the operational aspects of the ratios legislation, for the purposes of Part 6, Division 4, of the *Hospital and Health Boards Act 2011*.

The regulation inserts new part 6A and new Schedule 2A into the *Hospital and Health Boards Regulation 2012*. Part 6A prescribes minimum nurse-to-patient and midwife-to-patient ratios and contains provisions to support the interpretation and application of the ratios.

The regulation prescribes the following minimum nurse-to-patient and midwife-to-patient ratios:

- one nurse or midwife to four patients for the morning shift,
- one nurse or midwife to four patients for the afternoon shift, and
- one nurse or midwife to seven patients for the night shift.

The terms *morning shift*, *afternoon shift* and *night shift* are defined in the regulation by reference to a nominal spread of hours for each shift as follows:

- morning shift: the shift ordinarily worked by nurses or midwives in a ward that mostly falls between 7am and 3pm;
- afternoon shift: the shift ordinarily worked by nurses or midwives in a ward that mostly falls between 3pm and 11pm; and
- night shift: the shift ordinarily worked by nurses or midwives in a ward that mostly falls between 11pm and 7am.

The regulation also includes a rounding methodology for calculating the correct number of nurses or midwives required on a shift when the application of the required ratio to the number of patients on a prescribed ward does not result in a whole number.

New schedule 2A prescribes the public sector hospitals, and the acute adult wards within those hospitals, to which ratios will apply from 1 July 2016.

Consistency with policy objectives of authorising law

The regulation is consistent with the policy objectives of the *Hospital and Health Boards Act 2011*.

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 regulation is the only effective means of prescribing the ratios and the public sector health facilities, and parts of those facilities, to which the ratios will apply.

Benefits and costs of implementation

Implementation of the legislative framework for mandated ratios and workload management provisions will be funded from within existing Service budget allocations.

Consistency with fundamental legislative principles

The regulation is consistent with the fundamental legislative principles, as set out in section 4 of the *Legislative Standards Act 1992*.

Consultation

In September 2015, an exposure draft of the regulation was provided to key stakeholders, including Hospital and Health Services, nursing and midwifery professional colleges, Queensland schools of nursing and midwifery, private health sector organisations, and relevant unions including the Queensland Nurses' Union. Further consultation was undertaken with Hospital and Health Services and the Queensland Nurses' Union prior to finalising the regulation.

The Office of Best Practice Regulation (OBPR) within the Queensland Productivity Commission was also consulted regarding the proposal to legislate for minimum nurse to patient ratios and workload provisions. OBPR advised that a Regulatory Impact Statement was not required.

Notes on provisions

Short Title

Clause 1 provides the short title of the regulation.

Commencement

Clause 2 provides that the regulation commences on 1 July 2016. This date coincides with the commencement of the *Hospital and Health Boards (Safe Nurse-to-Patient and Midwife-to-Patient Ratios) Amendment Act 2016*.

Regulation amended

Clause 3 provides that the regulation amends the *Hospital and Health Boards Regulation 2012*.

Insertion of new pt 6A

Clause 4 inserts new part 6A comprising a heading and new sections 30A and 30B.

New section 30A clarifies what is meant by a *morning shift*, *afternoon shift* and *night shift*, for the purpose of new section 30B.

The hours referred to in the shift definitions do not represent actual shift hours, and start and finish times, which must be worked by nurses or midwives on prescribed wards. Rather, they represent a nominal spread of hours for the purpose of applying ratios, having regard to the differing shift arrangements that can occur across public sector health service facilities. For example, if a shift ordinarily worked by nurses or midwives in a prescribed ward in a prescribed facility is 1.00pm to 8.30pm then, for the purposes of applying ratios, that shift would be designated as an afternoon shift because the majority of the shift ordinarily worked falls between the hours of 3.00pm and 11.00pm.

New section 30B prescribes the minimum nurse-to-patient and midwife-to-patient ratios that are to be applied on morning, afternoon and night shifts. It also prescribes the methodology for correctly calculating the minimum number of nurses or midwives required when the application of the required ratio to the number of patients on a ward does not result in a whole number of nurses or midwives.

If the number of nurses or midwives calculated is less than one, then the number is taken to be one. If the number of nurses or midwives calculated is not a whole number then the number must be rounded to the nearest whole number (rounding one-half downwards). For example, if the number calculated is 1.25 then the number is one; if the number calculated is 1.5 then the number is one; and if the number calculated is 1.75 the number is two.

New section 30B applies only to an *acute adult ward*, which is defined in subsection (5) to mean an acute ward in which health services are provided to adult patients, in a public sector health service facility prescribed in new schedule 2A of the *Hospital and Health Boards Regulation 2012*.

Insertion of new sch 2A

Clause 5 inserts new schedule 2A into the *Hospital and Health Boards Regulation 2012*. The schedule prescribes the public sector hospitals, and acute adult wards in those hospitals, to which ratios will apply.

Amendment of sch 6 (Dictionary)

Clause 6 amends the dictionary in schedule 6 to include definitions for new terms relevant to new part 6A.

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