Health Legislation (Ratios and Other Matters) Amendment Regulation 2024

Explanatory notes for SL 2024 No. 142

made under the

Hospital and Health Boards Act 2011
Medicines and Poisons Act 2019

General Outline

Short title

Health Legislation (Ratios and Other Matters) Amendment Regulation 2024

Authorising law

Sections 138B and 282 of the *Hospital and Health Boards Act 2011*
Sections 232 and 240 of the *Medicines and Poisons Act 2019*

Policy objectives and the reasons for them

The purpose of the Health Legislation (Ratios and Other Matters) Amendment Regulation 2024 (Amendment Regulation) is to amend the:

- *Hospital and Health Boards Regulation 2023* to prescribe a minimum midwife-to-patient ratio and the maternity wards the ratio will apply to; and
- *Medicines and Poisons (Medicines) Regulation 2021* to update references to the new versions of the Midwives and Registered Nurses Extended Practice Authorities (EPAs) to:
  - allow registered nurses and midwives to perform medical terminations of pregnancy; and
  - clarify that midwives do not need to complete an immunisation training course to administer nirsevimab (an RSV vaccine).

Midwife-to-patient ratio amendments

The Hospital and Health Boards Act provides a framework for applying minimum nurse-to-patient and midwife-to-patient ratios to Queensland public health facilities (sections 138A to 138F), with the detail of the ratios contained in the Hospital and Health Boards Regulation.

From 1 July 2016, nurse-to-patient ratios applied to certain medical and surgical wards. In November 2019, ratios were expanded to certain acute mental health wards and in February 2020 ratios were introduced in Queensland Health's public residential aged care facilities.

In 2020, the Queensland Government committed to exploring potential models for expanding ratios to places experiencing high workload demand including postnatal inpatient maternity wards.

In 2023, a six-month trial of a minimum midwife-to-patient ratio was undertaken in a Clinical Service Capability Framework (CSCF) level 6 postnatal maternity ward. CSCF levels range from level 1 to level 6 based on the complexity of care, with level 6 being the highest level of complex care. The University of Queensland conducted an independent evaluation of the trial. The independent evaluation found the midwife-to-patient ratio of 1:6 which includes babies being counted as a separate patient provides a benefit to women, babies and staff. There were significant statistical differences in pre-implementation and post-implementation outcomes related to time spent in a special care nursery and the number of patient incidents.

Based on the findings of the trial, it is proposed to apply a minimum midwife-to-patient ratio to postnatal patients in CSCF level 5 and 6 postnatal maternity wards. CSCF level 5 and 6 facilities are the largest facilities and experience complex care in their postnatal maternity wards.

Under section 138D of the Hospital and Health Boards Act, if the Minister proposes to make a nursing and midwifery regulation applying to a health service, the Minister must consider the service's capability to comply with the regulation and the likely effects of compliance.

As a result of these considerations, the ratio will be rolled out to CSCF level 5 and 6 facilities using a staged approach over a three-year period to allow sufficient time to recruit the additional midwifery workforce required, to maintain sustainability of services and patient safety and quality, and to minimise workforce movement from rural and regional to metropolitan facilities.

The *Health and Other Legislation Amendment Act 2024* (Amendment Act) received assent on 18 March 2024 and amended the Hospital and Health Boards Act to clarify that, for the purposes of nurse-to-patient and midwife-to-patient ratios, a newborn baby is counted as a separate patient when they are staying in a room on a maternity ward with their birthing parent. These amendments laid the groundwork for implementing minimum midwife-to-patient ratios on postnatal maternity wards and ensure babies are counted separately when calculating the 1:6 ratio. A regulation is required to prescribe the minimum midwife-to-patient ratio and the maternity wards the ratio will apply to.

Medical termination of pregnancy

The Amendment Act amended the *Termination of Pregnancy Act 2018* to allow nurses and midwives to perform a medical termination of pregnancy using a termination drug if the practitioner is authorised under section 54 of the Medicines and Poisons Act to carry out the activity that constitutes the performance of the termination.

The termination of pregnancy drug, MS-2 Step, is classed as a schedule 4 medicine. Section 54 of the Medicines and Poisons Act states a regulation may prescribe a class of persons to be authorised to carry out a regulated activity with a regulated substance. This includes through reference in a regulation to an extended practice authority that applies to the class of persons.

Nurse practitioners and endorsed midwives are authorised to prescribe and administer schedule 4 medicines, so they are authorised to prescribe and administer MS-2 Step. It is also proposed that nurses and midwives who work under an extended practice authority will be authorised to perform a medical termination of pregnancy through the use of a termination of pregnancy drug.

Extended practice authority amendments

Section 232 of the Medicines and Poisons Act enables the chief executive or their delegate to make extended practice authorities that:

- state the places or circumstances in which an approved person may deal with a regulated substance;
- impose conditions on dealing with a regulated substance; or
- require an approved person to hold certain qualifications or training to deal with a regulated substance.

Schedule 1, part 1 of the Medicines and Poisons (Medicines) Regulation lists the approved extended practice authorities by name and version number.

The extended practice authority for Registered Nurses and the extended practice authority for Midwives have been updated to permit registered nurses and midwives who are authorised to work under an extended practice authority to perform a medical termination of pregnancy by administering, or giving a treatment dose of, a termination drug.

The midwives extended practice authority has also been updated to clarify midwives do not need to complete an immunisation training course to administer nirsevimab. Nirsevimab is a medicine for immunisation that protects against respiratory syncytial virus, commonly referred to as RSV. Midwives complete the immunisation training as part of their midwifery studies and it is unnecessary for them to undertake a separate immunisation training course to administer nirsevimab.

When new versions of an extended practice authority are made by the chief executive or their delegate, the Medicines and Poisons (Medicines) Regulation requires an amendment to reflect the new version so it can take effect.

Achievement of policy objectives

Midwife-to-patient ratio amendments

Amendments to the Hospital and Health Boards Regulation are required to prescribe the minimum midwife-to-patient ratio for maternity wards and the facilities the ratio will apply to, in accordance with section 138B of the Hospital and Health Boards Act.

The Amendment Regulation amends the Hospital and Health Boards Regulation to prescribe the minimum midwife-to-patient ratio of 1:6 for postnatal maternity wards for all CSCF level 5 and 6 facilities. The same ratio will apply to all shifts, day or night.

To achieve the intended three-year staged approach to implementation, there will be different compliance start dates for the identified facilities as outlined below:

- 1 September 2025
    - Royal Brisbane and Women's Hospital
    - Townsville University Hospital
- 1 September 2026
    - Cairns Hospital
    - Gold Coast University Hospital
- 1 July 2027
    - Logan Hospital
    - Sunshine Coast University Hospital

The existing provisions in the Hospital and Health Boards Regulation about rounding of the minimum number of nurses or midwives in calculating ratios will be retained and will apply to the midwife-to-patient ratio in the same way as existing rounding rules apply.

Extended practice authority amendments

The Amendment Regulation will give effect to the amendments to the Termination of Pregnancy Act which require a health practitioner to be authorised to use a termination drug under the Medicines and Poisons Act.

The Amendment Regulation will also give effect to the amendments made to the Midwives extended practice authority to clarify midwives do not need to complete an immunisation training course to administer nirsevimab.

The Amendment Regulation achieves this by amending schedule 1, part 1 (approved extended practice authorities) of the Medicines and Poisons (Medicines) Regulation to reflect the new versions of the extended practice authorities being Registered Nurses version 5 and Midwives version 4.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the policy objectives of the Hospital and Health Boards Act and Medicines and Poisons Act.

Inconsistency with policy objectives of other legislation

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

Alternative ways of achieving policy objectives

No alternative ways of achieving the policy objectives have been identified. The Amendment Regulation is the only effective way to achieve the policy objectives.

Benefits and costs of implementation

Midwife-to-patient ratio amendments

The independent evaluation conducted by the University of Queensland determined the following noticeable impacts and benefits of the midwife-to-patient ratio of 1:6 during the trial:

- midwives working to optimal scope of practice in postnatal care;

- improved workplace culture;
- reduced admission of newborns to special care nursery;
- reduced average newborn length of stay in a special care nursery; and
- positive cost benefit ratio of additional midwives.

The evaluation highlighted that during the six-month trial period there was a decrease in the length of stay for newborns in special care nursery (499 days) and intensive care nursery (1,475 days).

Additional midwives will need to be recruited and employed to meet the midwife-to-patient ratio. The initial positions have been funded as part of the funding for the Queensland Health Workforce Strategy in the 2024-25 State Budget.

Extended practice authority amendments

The cost of implementing the amendments to the Medicines and Poisons (Medicines) Regulation will be met within existing budget allocations.

Consistency with fundamental legislative principles

The Amendment Regulation is consistent with fundamental legislative principles as defined in section 4 of the *Legislative Standards Act 1992*.

Consultation

Midwife-to-patient ratio amendments

In addition to the consultation undertaken during development of the Amendment Act, consultation occurred with the affected Hospital and Health Services about the staged rollout and strategies for recruiting the additional midwifery workforce. A consultation paper detailing the amendments was also published on Queensland Health's website and emailed to key stakeholders. The majority of stakeholders were supportive of the amendments in-principle. As a result of feedback from stakeholders who argued implementation should be accelerated, the implementation timeframe was shortened from four years to three years, with compliance required by 1 July 2027. Due to ongoing recruitment challenges for midwives, it is considered a three-year implementation timeframe is required to recruit the necessary workforce.

Extended practice authority amendments

Medical termination of pregnancy

In addition to the consultation undertaken during development of the Amendment Act, Queensland Health clinicians who currently perform medical terminations of pregnancy were consulted during development of the updated Registered Nurses and Midwives extended practice authorities to ensure current protocols and medicinal responses to patient indications were reflected correctly.

Midwives administering nirsevimab

Midwifery education providers were consulted during development of the updated Midwives extended practice authority to ensure that education regarding medicines for immunisation for RSV is incorporated into foundational training.

Impact analysis

Queensland Health has assessed the Amendment Regulation in accordance with the *Queensland Government Better Regulation Policy.* As it relates to the internal management of the public sector, no regulatory impact analysis was required. The Office of Best Practice Regulation was notified of this assessment when developing the Impact Analysis Statement for the Amendment Regulation. The Minister for Health, Mental Health and Ambulance Services and Minister for Women and the Director-General of Queensland Health are satisfied that the regulatory review requirements have been met and have approved the Impact Analysis Statement for publication.