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

Explanatory notes for SL ... No. ...

made under the

Hospital and Health Boards Act 2011

General Outline

Short title

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

Authorising law

Section 138B 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 ... amended the Hospital and Health Boards Act 2011 (the Hospital and Health Boards Act) 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 amendments enable 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 amendments also enable a nursing and midwifery regulation to prescribe ratios by stated Hospital and Health Services (Services); by stated public sector health service facilities, or parts of facilities; and at stated times and circumstances.

This approach has been adopted to ensure the legislative framework provides sufficient operational flexibility to enable ratios to be gradually implemented in 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 to prescribed acute wards, units or departments within prescribed public sector health service facilities. It is proposed that ratios will be gradually implemented in Services, in a phased manner, from 1 July 2016.
Achievement of policy objectives

To implement safe nurse-to-patient and midwife-to-patient ratios, the Hospital and Health Boards Amendment Regulation (No. ..) 2016 (the Amendment Regulation) amends the Hospital and Health Boards Regulation 2012 to prescribe operational details of the ratios scheme for the purposes of Part 6, Division 4, of the Hospital and Health Boards Act.

The Amendment Regulation inserts new part 6A into the Hospital and Health Boards Regulation 2012. Part 6A prescribes nurse-to-patient and midwife-to-patient ratios; prescribes the public sector health service facilities (hospitals), and acute wards in those facilities, to which ratios will apply from 1 July 2016; and contains defined terms to support the interpretation and application of the ratio provision.

The Amendment Regulation prescribes that the minimum nurse-to-patient and midwife-to-patient ratios are:

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

The terms ‘morning shift’, ‘afternoon shift’ and ‘night shift’ are defined in the Amendment 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 Amendment 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.

In accordance with the phased implementation approach, the Amendment Regulation prescribes specific acute wards in 28 public sector hospitals.

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 Amendment 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 mandated ratios will cost approximately $25.9 million in the first year, to be funded from within existing Service budget allocations.

Consistency with fundamental legislative principles

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

Consultation

Targeted consultation on the Amendment Regulation was undertaken by providing an exposure draft to the following stakeholders:

- Hospital and Health Services
- Queensland Nurses' Union
- Australian Workers' Union
- Together Union
- Australian College of Nursing
- Australian College of Midwives
- Australian College of Nurse Practitioners
- Australian College of Mental Health Nurses
- Australian Medical Association Queensland
- Health Ombudsman
- Schools of Nursing and Midwifery (Australian Catholic University, Griffith University, James Cook University, Queensland University of Technology, University of Sunshine Coast, University of Queensland, University of Southern Queensland)
- Private Hospitals Association of Queensland
- Brisbane North Private Hospitals Network
- Anglicare Southern Queensland
- Mater Health Services
- Uniting Care Health
- Pindara Private Hospital Ramsay Health
- Ramsay Health Greenslopes Private Hospital
- The Wesley Hospital Uniting Care Health
- Friendly Society Private Hospital
- Maternity Choices Australia
- Midwifery and Maternity Provider Organisation Australia
- BUPA
- Royal Flying Doctor Service Queensland

Stakeholder feedback was considered during the development of the Amendment Regulation and, where appropriate, incorporated into the Amendment Regulation.
Notes on provisions

Short Title

Clause 1 provides the short title of the regulation.

Regulation amended

Clause 2 provides that the regulation amends the Hospital and Health Boards Regulation 2012.

Insertion of new pt 6A

Clause 3 inserts new part 6A comprising new sections 30A and 30B. This part prescribes the specific nurse-to-patient and midwife-to-patient ratios; prescribes the public sector health service facilities, and acute wards in those facilities, to which ratios will apply; and defines terms to support the interpretation and application of the ratio provision.

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, that 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 1pm-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 3pm and 11pm.

New section 30B prescribes minimum nurse-to-patient and midwife-to-patient ratios; and prescribes the public sector health service facilities (hospitals), and acute wards within those facilities, to which ratios will apply from 1 July 2016.

New section 30B 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. 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.

Amendment of sch 6 (Dictionary)

Clause 4 amends the dictionary in schedule 6 to include definitions for new terms relevant to new part 6A.