# Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Act 2015

**No. 51 of 2015**

Authorised Version incorporating amendments as at 1 March 2019

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The Parliament of Victoria enacts:

**Part 1—Preliminary**

1 **Purposes**

   The purposes of this Act are to provide for—

   (a) requirements that the operators of certain publicly funded health facilities staff certain wards with a minimum number of nurses or midwives; and

   (b) the reporting of compliance with and enforcement of those requirements.

2 **Commencement**

   (1) Subject to subsection (2), this Act comes into operation on a day or days to be proclaimed.

   (2) If a provision of this Act does not come into operation before 1 December 2017 it comes into operation on that day.

3 **Definitions**

   In this Act—

   **acute ward** means a multi-day inpatient ward in which any of the following are cared for—

   (a) patients who have an acute or chronic illness or an injury;

   (b) patients recovering from surgery;
After Hours Coordinator means a registered nurse or a midwife who is responsible for overseeing the operations of the hospital when the Director of Nursing or Director of Midwifery is not on duty;

aged high care residential ward means a ward at a location—

(a) the operator of which is an approved provider within the meaning of the Aged Care Act 1997 of the Commonwealth; and

(b) that, as at 30 June 2014, had at least one place within the meaning of that Act that was high care allocated;

bed includes cubicle, trolley, treatment chair, cot and delivery suite;

below ratios distribution means a proposal made under section 34(1) before the repeal of that section by section 15 of the Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Amendment Act 2018;

coronal care unit means a unit of specialised critical care beds dedicated to acute care, treatment and monitoring of patients with serious or unstable cardiac diseases;

Department means the Department of Health and Human Services;

enrolled nurse means a person registered in Division 2 of the Register of Nurses kept by the Nursing and Midwifery Board of Australia under the Health Practitioner Regulation National Law, other than as a student;
general medical or surgical ward means—

(a) a multi-day inpatient ward in which either of the following are cared for—

(i) patients with an acute or chronic illness or an injury;

(ii) patients recovering from surgery;

or

(b) an area of a hospital into which patients admitted to the emergency department are transferred for the provision of short-term treatment, observation, assessment or reassessment when they no longer require emergency care;

high care beds do not include—

(a) aged person mental health beds for which supplementary funding is provided by the Department in accordance with the Victorian health policy and funding guidelines published by the Department from time to time; or

(b) low care allocated places as at 30 June 2014;

hospital means—

(a) a level 1 hospital, a level 2 hospital, a level 3 hospital or a level 4 hospital; or

(b) the following—

(i) Darlingford Upper Goulburn Nursing Home Inc.;

(ii) Indigo North Health Inc.;

(iii) Lyndoch Living Inc.;

(iv) Red Cliffs and Community Aged Care Services Inc.;
level 1 hospital means a hospital specified in Part 1 of Schedule 1;

level 2 hospital means a hospital specified in Part 2 of Schedule 1;

level 3 hospital means a hospital specified in Part 3 of Schedule 1;

level 4 hospital means a campus of any public hospital, denominational hospital, multi purpose service or public health service within the meaning of the Health Services Act 1988 other than a public hospital, denominational hospital, multi purpose service or public health service that is a level 1 hospital, level 2 hospital or level 3 hospital;

local dispute means a dispute between a nurse or midwife and the operator of a hospital initiated by way of a notification under section 41(1);

midwife means a person registered in the Register of Midwives kept by the Nursing and Midwifery Board of Australia under the Health Practitioner Regulation National Law, other than as a student;

midwife in charge means a midwife who is undertaking, whether temporarily or permanently, the role of—

(a) a midwifery unit manager or equivalent; or

(b) an associate midwifery unit manager or equivalent;
**neonatal intensive care unit** means a specialist ward, or part of such a ward, that has the capacity to provide continuous life support and in which comprehensive multidisciplinary care is provided to newborn infants who are critically unwell;

**nominated mixed ward** means a ward named in a notice published under section 12A;

**nurse** means registered nurse or enrolled nurse;

**nurse in charge** means a registered nurse who is undertaking, whether temporarily or permanently, the role of—

(a) a nurse unit manager or equivalent; or

(b) an associate nurse unit manager or equivalent;

**occupied** includes available to be occupied;

**operator**, in relation to a hospital, means the entity that has day-to-day responsibility for managing and operating the hospital;

**ratio** means a staffing requirement set out in a provision of Part 2;

**ratio variation** means a variation to a ratio implemented under Division 4 of Part 2;
registered nurse means a person registered in Division 1 of the Register of Nurses kept by the Nursing and Midwifery Board of Australia under the Health Practitioner Regulation National Law, other than as a student;

relevant union means an organisation within the meaning of the Fair Work (Registered Organisations) Act 2009 of the Commonwealth that represents or is entitled to represent a nurse or midwife in a ward;

safe patient care compliance direction means a direction given under section 37(1);

Secretary means the Department Head (within the meaning of the Public Administration Act 2004) of the Department;

special care nursery means a ward, or part of such a ward, in which care is provided solely to newborn infants who are unwell but who do not require the level of care and treatment provided to newborn infants in a neonatal intensive care unit;

ward means a ward, unit, department or component of a hospital managed by a nurse or midwife who is undertaking, whether temporarily or permanently, the role of—

(a) a nurse unit manager or equivalent; or

(b) a midwifery unit manager or equivalent.
4 Objective

(1) The objective of this Act is to provide for safe patient care in hospitals by establishing requirements for a minimum number of nurses or midwives per number of patients in specified wards or beds, recognising that nursing workloads impact on the quality of patient care.

(2) In meeting the objective of this Act, the operator of a hospital may apply the ratios in a flexible manner having regard to the following—

(a) variations in the number of patients who occupy or are expected to occupy beds;

(b) variations in patient numbers that may lead to a period of peak demand.

5 Change in name of hospital

If the name of a hospital changes, the requirements of this Act continue to apply to that hospital after the change of name despite the change of name.

6 Crown bound

This Act binds the Crown in right of Victoria and, to the extent that the legislative power of the Parliament permits, the Crown in all its other capacities.

7 Act not to affect employment contracts or workplace instruments

Nothing in this Act is intended to constitute a term of or to alter or vary, or authorise or require the alteration or variation of—

(a) any employment contract; or

(b) any workplace instrument within the meaning of the Fair Work Act 2009 of the Commonwealth.
Part 2—Nurse to patient and midwife to patient ratios

Division 1—General

8 Ratio includes ratio variation

In this Division, *ratio* includes a staffing requirement that applies under a ratio variation, subject to any terms of that variation.

9 Application of ratios

(1) Except as otherwise provided—

(a) a ratio applies to every ward in each hospital to which it is specified to apply; and

(b) a ratio must be applied on the basis of the actual number of patients in each ward to which it applies; and

(c) a ratio is a minimum requirement only and is not intended to prevent the operator of a hospital from staffing a ward with additional nurses or midwives beyond the number required by the ratio; and

(d) a ratio may be applied in a flexible way in order to evenly distribute the workload, having regard to the level of care required by patients in a ward.

Examples

1 For subsection (1)(b), in a ward with 30 beds where only 26 beds are usually occupied, the operator of the hospital must not use the other 4 beds unless additional staff are available to meet the ratio requirements.

2 For subsection (1)(d), in a ward with 8 patients and a 1:4 ratio, if 3 patients require a higher level of care and 5 patients require a lower level of care then one nurse may be assigned to care for the 3 patients requiring the higher level of care and the other nurse to the other 5 patients.
(2) Despite anything to the contrary in this Act, a ratio does not apply in respect of any ward that is being predominantly utilised for the care of persons being treated for a mental illness within the meaning of the Mental Health Act 2014.

10 Application of ratios in small hospitals

(1) Despite anything to the contrary in a ratio applying to a level 4 hospital with one ward, the operator of the hospital must staff that ward with—

(a) one registered nurse on all shifts; and

(b) one After Hours Coordinator or equivalent position (who is not supernumerary) during all off-duty periods of the Director of Nursing or Director of Midwifery.

(2) The operator of a hospital with only 2 wards may count one After Hours Coordinator (who is not supernumerary) towards meeting any ratio during all off-duty periods of the Director of Nursing or Director of Midwifery.

11 Out of hours coordination of hospitals

The operator of a hospital with 3 wards or more must staff the hospital with one After Hours Coordinator during all off-duty periods of the Director of Nursing or Director of Midwifery, in addition to any ratio that applies.

12 Rounding method

(1) If the actual or expected number of patients in a ward or the number of beds of one of the following categories is not divisible into a whole number following the application of the relevant ratio, the operator of the hospital must ensure that the ward or number of beds is staffed with one additional nurse or midwife (as the case requires) in order to comply with the ratio—
(a) on and from the day on which Part 2 of the Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Amendment Act 2018 comes into operation—

(i) on all shifts in level 1 hospitals and level 2 hospitals—
   (A) a general medical or surgical ward;
   (B) a coronary care unit;
   (C) a high dependency unit;
   (D) an operating theatre;
   (E) a post-anaesthetic recovery room;

(ii) on all shifts in an emergency department in hospitals specified in Part 1 of Schedule 3;

(iii) on the night shift in—
   (A) an emergency department in hospitals specified in Part 2 or 3 of Schedule 3;
   (B) an emergency department to which section 20(5) applies;

(iv) on the night shift in level 3 hospitals—
   (A) a general medical or surgical ward;
   (B) a coronary care unit;
   (C) a high dependency unit;
   (D) an operating theatre;
   (E) a post-anaesthetic recovery room;

(v) on the night shift in level 4 hospitals—
   (A) an acute ward;
   (B) a coronary care unit;
(C) a high dependency unit;
(D) an operating theatre;
(E) a post-anaesthetic recovery room;

(vi) on the night shift in an aged high care residential ward in all hospitals;

(b) on and from 1 March 2020—

(i) on the morning shift in level 3 hospitals—

(A) a general medical or surgical ward;
(B) a coronary care unit;
(C) a high dependency unit;
(D) an operating theatre;
(E) a post-anaesthetic recovery room;

(ii) on the morning shift in level 4 hospitals—

(A) an acute ward;
(B) a coronary care unit;
(C) a high dependency unit;
(D) an operating theatre;
(E) a post-anaesthetic recovery room;

(iii) on the morning shift in—

(A) an emergency department in hospitals specified in Part 2 or 3 of Schedule 3;
(B) an emergency department to which section 20(5) applies;
(iv) on the night shift in all hospitals—
   (A) a palliative care inpatient unit;
   (B) a geriatric evaluation management bed;

(c) on and from 1 March 2021—
   (i) on the morning shift in all hospitals—
      (A) a palliative care inpatient unit;
      (B) a geriatric evaluation management bed;
      (C) a rehabilitation bed;
   (ii) on the afternoon shift in level 3 hospitals—
      (A) a general medical or surgical ward;
      (B) a coronary care unit;
      (C) a high dependency unit;
      (D) an operating theatre;
      (E) a post-anaesthetic recovery room;
   (iii) on the afternoon shift in level 4 hospitals—
      (A) an acute ward;
      (B) a coronary care unit;
      (C) a high dependency unit;
      (D) an operating theatre;
      (E) a post-anaesthetic recovery room;
   (iv) on the afternoon shift in—
      (A) an emergency department in hospitals specified in Part 2 or 3 of Schedule 3;
(B) an emergency department to which section 20(5) applies;

(v) on the night shift in all hospitals—

(A) a special care nursery;

(B) a neonatal intensive care unit;

(C) an antenatal ward;

(D) a postnatal ward;

(E) a birthing suite;

(d) on and from 1 March 2022—

(i) on the morning shift in all hospitals—

(A) a special care nursery;

(B) a neonatal intensive care unit;

(C) an antenatal ward;

(D) a postnatal ward;

(E) a birthing suite;

(ii) on the afternoon shift in all hospitals—

(A) a palliative care inpatient unit;

(B) a geriatric evaluation management bed;

(C) a rehabilitation bed;

(e) on and from 1 March 2023, on the afternoon shift in all hospitals—

(i) a special care nursery;

(ii) a neonatal intensive care unit;

(iii) an antenatal ward;

(iv) a postnatal ward;

(v) a birthing suite.
(2) If on a date in relation to which a ward (other than a nominated mixed ward) or a number of beds is staffed to comply with a ratio for a particular category of ward or bed subsection (1) does not apply to that particular category, the operator is not required to ensure that the ward or number of beds is staffed with an additional nurse or midwife in order to comply with the relevant ratio unless—

(a) safe patient care may be compromised if the ward or number of beds is not staffed with the additional nurse or midwife; and

(b) the actual or expected number of patients in the ward or the number of beds requires more than 50 per cent of one additional nurse or midwife in order to comply with the ratio.

(3) In addition to any requirement under subsection (2), the operator of a hospital may assign a nurse or midwife to care for patients—

(a) across multiple wards at night; or

(b) in the case of a nurse, across multiple beds in aged high care residential wards on any shift.

12A Ratio for mixed wards

(1) In February and August each year, the operator of a hospital—

(a) must nominate a ward as a mixed ward for the following 6 month period starting on 1 March or 1 September of that year (as the case requires) if—
(i) the operator has specifically configured the ward to provide, in the course of its ordinary operation, a mixture of clinical services; and

(ii) there is more than one portion of the ward and, accordingly, more than one ratio would apply when determining staff numbers for the entire ward but for subsection (3); and

(b) must publish a notice of the nomination of the ward as a mixed ward on the hospital's Internet site including the following details—

(i) the name of the mixed ward;

(ii) the total number of occupied beds in the mixed ward;

(iii) the different ratios that would apply but for subsection (3);

(iv) the expected number of occupied beds in each portion of the ward during the following 6 month period determined in accordance with subsection (2).

(2) For the purpose of determining the expected number of occupied beds in each portion of the ward, the operator must take into account—

(a) the portions in the ward and the number of occupied beds in each portion during the preceding 12 months; and

(b) any factors during the following 6 month period (or the remainder of the 6 month period if subsection (8) applies) which are likely—
(3) Subject to subsections (4), (5) and (6), the operator of a hospital must staff a nominated mixed ward in accordance with a ratio determined as follows for the relevant 6 month period—

(a) determine the number of staff (excluding any nurse in charge or midwife in charge) for each portion by applying the relevant ratio for that portion;

(b) add the number of staff for each portion;

(c) determine the nominated mixed ward ratio by dividing the total number of occupied beds in the nominated mixed ward by the total number of staff ascertained in paragraph (b).

(4) For the purposes of subsection (3)(a), if the number of occupied beds in a portion is not divisible into a whole number following the application of the relevant ratio for that portion, the number of staff for that portion may be rounded down to the nearest whole number if at least one (but not all) of the portions of the nominated mixed ward is a portion to which section 12(2) would apply if the portion were a ward.

(5) If the number of occupied beds in the nominated mixed ward is not divisible into a whole number following the application of the ratio determined under subsection (3)(c), the operator of the hospital must ensure that the ward is staffed with an additional nurse or midwife (as the case requires) in order to comply with that ratio unless—
(a) section 12(2) would apply to each portion of the nominated mixed ward if each portion were a ward; and
(b) safe patient care would not be compromised if the nominated mixed ward were not staffed with the additional nurse or midwife; and
(c) the number of occupied beds in the nominated mixed ward requires less than or equal to 50 per cent of one additional nurse or midwife in order to comply with that ratio.

(6) If the ratio applying to a portion of a nominated mixed ward requires a nurse in charge or a midwife in charge for that portion, only one nurse in charge or one midwife in charge (as the case requires) is required for the entire nominated mixed ward.

(7) If the operator of a hospital fails to nominate a ward as a mixed ward in accordance with subsection (1)—

(a) the ratio otherwise applying to a portion of the ward that is the highest nurse to patient, or midwife to patient, ratio of the ratios otherwise applying to the portions of the ward is to be applied to the mixed ward as a whole until the operator nominates the mixed ward; and

Example

A mixed ward that the operator has failed to nominate consists of 2 portions. The ratio of one nurse for every 3 patients applies to Portion A. The ratio of one nurse for every 6 patients applies to Portion B. The ratio that applies to the entire ward is one nurse for every 3 patients because this ratio is the higher of the 2 ratios.
(b) if any ratio otherwise applying to a portion of a nominated mixed ward would but for this section require a nurse in charge or a midwife in charge for that portion, only one nurse in charge or one midwife in charge (as the case requires) is required for the entire ward.

Example
A mixed ward that the operator has failed to nominate consists of 2 portions. A nurse in charge is required for Portion A. A nurse in charge is required for Portion B. Despite each portion requiring a nurse in charge, the operator is not required to staff the mixed ward with 2 nurses in charge. One nurse in charge is sufficient.

(8) If the configuration of a nominated mixed ward changes during a specified 6 month period, resulting in significantly different portions or significantly different numbers of occupied beds in its portions, the operator of a hospital—

(a) must make a new nomination in relation to the mixed ward for the remainder of the 6 month period; and

(b) must publish a notice of the new nomination on the hospital's Internet site including the following details—

(i) the name of the mixed ward;

(ii) the total number of occupied beds in the mixed ward;

(iii) the different ratios that would apply but for subsection (3);

(iv) the expected number of occupied beds in each portion of the ward during the remainder of the 6 month period determined in accordance with subsection (2); and
(c) must staff the nominated mixed ward for the remainder of the 6 month period in accordance with a new ratio determined in accordance with subsection (3).

(9) This section does not apply to—

(a) a special care nursery with 8 or more occupied cots; or

(b) a ward with 6 or more birthing suites.

(10) In this section—

portion, in relation to a mixed ward, means the category of those patients or beds in the ward to which a particular ratio applies.

Example

A mixed ward may have 3 portions: a portion of general medical or surgical beds, a portion of palliative care beds and a portion of coronary care beds.

13 Demand higher or lower than expected

(1) Beds in addition to the beds that have been staffed under a ratio may only be occupied if nurses or midwives are available to comply with the ratio.

(2) If the actual or expected number of patients on a particular day falls below the number of patients for which a ward is staffed in accordance with a ratio, the number of nurses or midwives may be adjusted down before the commencement of a shift.

Note

See also section 7.

14 Skill mix

The operator of a hospital, other than a hospital specified in Schedule 2, may use no more than 20 per cent enrolled nurses in meeting ratios in an acute ward or a general medical or surgical ward.
Division 2—Nurse to patient ratios

15 Level 1 hospitals
The operator of a level 1 hospital must staff a general medical or surgical ward as follows—

(a) on the morning shift or the afternoon shift—
   (i) one nurse for every 4 patients; and
   (ii) one nurse in charge;

(b) on the night shift, one nurse for every 8 patients.

16 Level 2 hospitals
The operator of a level 2 hospital must staff a general medical or surgical ward as follows—

(a) on the morning shift—
   (i) one nurse for every 4 patients; and
   (ii) one nurse in charge;

(b) on the afternoon shift—
   (i) one nurse for every 5 patients; and
   (ii) one nurse in charge;

(c) on the night shift, one nurse for every 8 patients.

17 Level 3 hospitals
The operator of a level 3 hospital must staff a general medical or surgical ward as follows—

(a) on the morning shift—
   (i) one nurse for every 5 patients; and
   (ii) one nurse in charge;

(b) on the afternoon shift—
   (i) one nurse for every 6 patients; and
   (ii) one nurse in charge;
(c) on the night shift, one nurse for every 10 patients.

18 Level 4 hospitals

(1) The operator of a level 4 hospital must staff an acute ward as follows—

(a) on the morning shift—
(i) one nurse for every 6 patients; and
(ii) one nurse in charge;

(b) on the afternoon shift—
(i) one nurse for every 7 patients; and
(ii) one nurse in charge;

(c) on the night shift, one nurse for every 10 patients.

S. 18(2) repealed by No. 1/2019 s. 7.

19 Aged high care residential wards

The operator of a hospital must ensure that the high care beds in an aged high care residential ward are staffed as follows—

(a) on the morning shift—
(i) one nurse for every 7 residents; and
(ii) one nurse in charge;

(b) on the afternoon shift—
(i) one nurse for every 8 residents; and
(ii) one nurse in charge;

(c) on the night shift, one nurse for every 15 residents.
20 Emergency departments

(1) The operator of a hospital specified in Part 1 of Schedule 3 must staff a ward that is an emergency department as follows—

(a) on the morning shift—
   (i) one nurse for every 3 beds; and
   (ii) one nurse in charge; and
   (iii) one triage nurse;
(b) on the afternoon shift—
   (i) one nurse for every 3 beds; and
   (ii) one nurse in charge; and
   (iii) 2 triage nurses;
(c) on the night shift—
   (i) one nurse for every 3 beds; and
   (ii) one nurse in charge; and
   (iii) one triage nurse.

(3) The operator of a hospital specified in Part 2 of Schedule 3 must staff a ward that is an emergency department as follows on all shifts—

(a) one nurse for every 3 beds; and
(b) one nurse in charge; and
(c) one triage nurse.

(4) The operator of a hospital specified in Part 3 of Schedule 3 must staff a ward that is an emergency department as follows—
(a) on the morning shift or the afternoon shift—
   (i) one nurse for every 3 beds; and
   (ii) one nurse in charge; and
   (iii) one triage nurse;
(b) on the night shift—
   (i) one nurse for every 3 beds; and
   (ii) one nurse in charge.

(5) The operator of a hospital, the emergency department of which has had more than 7000 annual presentations (other than a hospital specified in Schedule 3), must staff the ward that is the emergency department as follows on all shifts—

(a) one nurse for every 3 beds; and
(b) one nurse in charge; and
(c) in the case of an emergency department that had a regularly rostered triage nurse on one or more shifts immediately before the commencement of this section, one triage nurse for that shift or each of those shifts in that ward.

(6) The operator of a hospital, the emergency department of which has had between 5000 and 7000 annual presentations (both inclusive) (other than a hospital specified in Schedule 3), must staff the emergency department with 2 registered nurses on all shifts.

(7) The 2 nurses referred to in subsection (6) may be assigned to meet the ratios in other wards of the hospital if they are free to return to the emergency department immediately when required.
(8) The operator of a hospital the emergency department of which has had fewer than 5000 annual presentations must staff the hospital with—

(a) if the hospital has only one or 2 wards—

(i) 2 registered nurses on all shifts; and

(ii) an additional nurse who is available to assess and care for patients within the emergency department when required; and

(b) if the hospital has 3 or more wards—

(i) 2 registered nurses on all shifts; and

(ii) an additional nurse who is supernumerary and available to assess and care for patients within the emergency department when required.

(9) If an emergency department to which this section applies experiences a seasonal fluctuation in the number of presentations such that a ratio required by a different subsection of this section would otherwise apply during the period of that fluctuation (if taken on an annualised basis) but for the operation of this section and the operator of the hospital determines to implement staffing changes based on the seasonal fluctuation, the operator of the hospital must staff the emergency department ward with the number of nurses, triage nurses and nurses in charge that would be required by that other subsection during the period of the fluctuation.

(10) In this section—

*annual presentations* means presentations in the 12 months immediately preceding the day on which the ratio is being applied;
Presentations means persons who present to the emergency department for assessment.

Note
A local agreement may vary the application of these ratios and other ratios in this Division. See section 36.

21 Coronary care units
The operator of a hospital must staff a ward that is a coronary care unit as follows—
(a) on the morning shift or the afternoon shift—
   (i) one nurse for every 2 patients; and
   (ii) one nurse in charge;
(b) on the night shift, one nurse for every 3 patients.

22 High dependency units
(1) The operator of a level 1 hospital must staff a ward that is a stand alone high dependency unit as follows—
   (a) on the morning shift or the afternoon shift—
      (i) one nurse for every 2 patients; and
      (ii) unless the unit is co-located with an intensive care unit, one nurse in charge;
   (b) on the night shift, one nurse for every 2 patients.
(2) The operator of Central Gippsland Health Service (Sale campus), West Gippsland Hospital, Wimmera Health Care Group Hospital (Horsham campus) and Warrnambool Base Hospital must staff a ward that is a high dependency unit as follows—
   (a) on the morning shift—
      (i) one nurse for every 2 patients; and
      (ii) one nurse in charge;
(b) on the afternoon shift or the night shift, one nurse for every 2 patients.

(3) The operator of Angliss Hospital, Bairnsdale Regional Health Service, Echuca Regional Health and Portland District Health must staff beds in a high dependency unit with one nurse for every 3 beds on all shifts.

(4) The operator of Swan Hill District Health and Williamstown Hospital must staff beds in a high dependency unit with one nurse for every 4 beds on all shifts.

23 Palliative care inpatient units

The operator of a hospital must staff a ward that is a palliative care inpatient unit as follows—

(a) on the morning shift—
   (i) one nurse for every 4 patients; and
   (ii) one nurse in charge;

(b) on the afternoon shift—
   (i) one nurse for every 5 patients; and
   (ii) one nurse in charge;

(c) on the night shift, one nurse for every 8 patients.

24 Rehabilitation and geriatric evaluation management

(1) The operator of a hospital must staff rehabilitation beds as follows—

(a) on the morning shift or the afternoon shift—
   (i) one nurse for every 5 patients; and
   (ii) one nurse in charge;

(b) on the night shift, one nurse for every 10 patients.
(2) The operator of a hospital must staff geriatric evaluation management beds as follows—
   (a) on the morning shift—
      (i) one nurse for every 5 patients; and
      (ii) one nurse in charge;
   (b) on the afternoon shift—
      (i) one nurse for every 6 patients; and
      (ii) one nurse in charge;
   (c) on the night shift, one nurse for every 10 patients.

25 Operating theatres

(1) The operator of a hospital must staff an operating theatre with the following—
   (a) one instrument nurse;
   (b) one circulating nurse;
   (c) one anaesthetic nurse.

(2) The operator of a hospital may reduce or increase the number of nurses with whom an operating theatre is staffed in accordance with the prescribed criteria.

   Note

See also section 7.

(3) The operator of a hospital that complies with subsection (2) is taken to comply with the ratio in subsection (1).

(4) In this section, operating theatre means an operating theatre that is being utilised to perform a surgical procedure.
26 Post-anaesthetic recovery rooms

The operator of a hospital must staff a post-anaesthetic recovery room with one nurse for each unconscious patient on all shifts.

27 Special care nurseries

(1) The operator of a hospital must staff a ward that is a special care nursery as follows on all shifts—

(a) in the case of a special care nursery with 9 or fewer occupied cots—
   (i) one nurse or midwife; and
   (ii) for every 4 additional occupied cots beyond 4, one person, being either a nurse or a midwife;

(b) in the case of a special care nursery with 10 occupied cots, 3 persons, each being either a nurse or a midwife;

(c) in the case of a special care nursery with 11 or more occupied cots—
   (i) 4 persons, each being either a nurse or a midwife; and
   (ii) for every 3 additional occupied cots beyond 11, one person, being either a nurse or a midwife.

(2) Despite section 12, the operator of a hospital must staff a special care nursery with 6 occupied cots, on all shifts, with 2 persons, each being either a nurse or a midwife.
(3) A nurse or midwife with whom the operator of a hospital staffs a special care nursery for the purpose of complying with this section must have completed—

(a) the equivalent of at least 64 hours' employment per fortnight as a nurse or a midwife during a 12 month period; or

(b) a total of 64 hours' placement in a special care nursery.

Note
The 64 hours' placement in a special care nursery is supernumerary to the relevant ratio.

(4) For the purpose of ensuring that appropriate care and treatment of infants in a special care nursery is provided, the operator of the hospital—

(a) must take into account the prescribed criteria; and

(b) in accordance with the prescribed criteria, may staff the special care nursery with nurses or midwives in addition to the number required as a minimum under subsection (1).

28 Neonatal intensive care units

(1) The operator of a hospital must staff a ward that is a neonatal intensive care unit as follows on all shifts—

(a) one nurse for every 2 occupied cots; and

(b) one nurse in charge.

(2) For the purposes of ensuring that appropriate care and treatment of infants in a neonatal intensive care unit is provided, the operator of a hospital—

(a) must take into account the prescribed criteria; and
(b) in accordance with the prescribed criteria, may staff the neonatal intensive care unit with nurses in addition to the number required as a minimum under subsection (1).

### Division 3—Midwife to patient ratios

#### 29 Meaning of patient

In this Division, patient does not include a newborn infant.

#### 30 Antenatal wards

(1) The operator of a hospital must staff an antenatal ward with the following—

(a) on the morning shift or the afternoon shift—

(i) one midwife for every 4 patients; and

(ii) one midwife in charge or nurse in charge;

(b) on the night shift, one midwife for every 6 patients.

(2) A midwife or nurse assigned to an antenatal ward at night may assist in a nursery other than a neonatal intensive care unit, if the hospital layout and workload permits, without the operator of the hospital being in contravention of the requirement set out in subsection (1)(b).

#### 31 Birthing suites

(1) Subject to subsection (2), the operator of a level 1 hospital, a level 2 hospital or a level 3 hospital must ensure that 2 midwives for every
3 nominated birthing suites are provided on all shifts.

(2) The operator of a hospital referred to in subsection (1) that has had fewer than 730 births in the 12 months immediately preceding the relevant day must staff the nominated birthing suites with one midwife on all shifts.

(3) A midwife rostered on under subsection (2) may be rostered to be on call for the hospital.

(4) A midwife rostered to a birthing suite may be redeployed to assist in another ward in addition to the ratio for that ward if not required in the birthing suite.

(5) If a midwife is redeployed from a birthing suite in accordance with subsection (4), the operator of the hospital is taken to comply with the ratio for the birthing suite.

(6) In February and August each year, the operator of a hospital—
    
    (a) must determine the number of occupied birthing suites in the hospital for the following 6 month period starting on 1 March or 1 September of that year (as the case requires); and
    
    (b) must publish the determination referred to in paragraph (a) on the hospital's Internet site.

(7) For the purpose of determining the number of occupied birthing suites under subsection (6), the operator of a hospital must take into account—
    
    (a) the number of birthing suites used for birthing or midwifery assessments during the preceding 12 months; and
(b) any factors which are likely to increase or decrease the number of birthing suites to be used for birthing or midwifery assessments during the following 6 month period.

(8) Despite anything to the contrary in subsection (7), if the operator of a hospital determines that fewer birthing suites were used during the preceding 12 months on Saturdays and Sundays, the operator may determine the number of occupied birthing suites in the hospital that—

(a) is applicable only on Saturdays and Sundays for the relevant 6 month period; and

(b) is lower than the number determined under subsection (6).

(9) As soon as practicable after receiving a request from the relevant union for the information used by the operator to make a determination under subsection (6) or (8), the operator of a hospital must provide the relevant union with the information.

(10) In this section—

midwifery assessment is an assessment of an outpatient by a midwife in a birthing suite for the purposes of assessing the outpatient in relation to the outpatient's pregnancy;

nominated birthing suite means a birthing suite that is one of a number of birthing suites determined to be occupied under this section.

31A Postnatal wards

(1) Subject to subsection (2), the operator of a hospital must staff a postnatal ward with the following—
Part 2—Nurse to patient and midwife to patient ratios

(a) on the morning shift or the afternoon shift—
   (i) one midwife or nurse for every 4 patients; and
   (ii) one midwife in charge or nurse in charge;

(b) on the night shift, one midwife or nurse for every 6 patients.

(2) The operator of a hospital must ensure that, of the persons referred to in subsection (1)(a)(i) or (b) and with whom the operator staffs a postnatal ward for the purpose of complying with the ratio—

(a) at least one is a midwife; and

(b) not more than one is a nurse.

(3) A nurse with whom the operator of a hospital staffs a postnatal ward for the purpose of complying with the ratio—

(a) must have completed a total of 48 hours' placement in a postnatal ward; and

Note
The 48 hours' placement in a postnatal ward is supernumerary to the relevant ratio.

(b) must be undertaking a postgraduate midwifery program in the course of the nurse's employment by the hospital; and

(c) must satisfy the prescribed requirements.

Division 4—Variations from ratios

32 Quality of care paramount

In any proposal under this Division to vary a ratio—

(a) the primary consideration is the impact on the quality of patient care; and
(b) any other considerations are as prescribed.

* * * * *

36 Local agreements to vary

(1) The operator of a hospital and a relevant union may enter into an agreement to vary—

(a) a ratio; or

(b) the application of a rounding method under section 12.

(2) An agreement under subsection (1) may only be implemented if the agreement is made in accordance with any prescribed procedures.

(3) The operator of a hospital that complies with an agreement under subsection (1) is taken to comply with the relevant ratio or the requirement of section 12, as the case may be.
Part 3—Compliance and reporting

37 Power to give safe patient care compliance direction

(1) The Secretary, for the purposes of giving effect to the objective of this Act, may give a written direction to the operator of a hospital in relation to the following matters—

(a) a requirement that the operator comply with a ratio or a ratio variation, including a requirement arising out of a declaration made or injunction granted under section 42(1);

(b) any other matter or thing necessary or appropriate to be directed in order to give effect to that objective.

Note

The objective of this Act is set out in section 4.

(2) The Secretary must give a copy of a safe patient care compliance direction to a member of the public on request.

(3) The Secretary must give a copy of a safe patient care compliance direction to any relevant union within a reasonable period after giving the direction.

38 Procedure for giving safe patient care compliance direction

(1) At least 48 hours before giving a safe patient care compliance direction, the Secretary must—

(a) give a copy of the proposed direction to the operator of the hospital; and

(b) indicate when the Secretary intends to give the direction.
(2) The operator of a hospital given a proposed direction under subsection (1) may give the Secretary written comments in relation to the proposed direction before the time at which the Secretary intends to give the direction.

(3) The Secretary must take into account any comments given in accordance with subsection (2)—

(a) in deciding whether to give the direction; and

(b) if the Secretary decides to give the direction, in determining the content of the direction.

39 Effect of safe patient care compliance direction

(1) The operator of a hospital to which a safe patient care compliance direction applies must comply with that direction.

(2) A safe patient care compliance direction has effect despite anything to the contrary in either of the following having effect in relation to the hospital to which the safe patient care compliance direction applies—

(a) a health service agreement within the meaning of the Health Services Act 1988; or

(b) an interim funding statement within the meaning of that Act.

40 Obligation to report certain matters

The operator of a hospital to which any of the following applies must report that matter in its report of operations for a financial year under Part 7 of the Financial Management Act 1994—

(a) any finding by the Magistrates' Court under section 42(1)(a) during that year that the operator did not comply with any of the following—
(i) a ratio;

(ii) a ratio variation;

(iii) a requirement by or under Division 4 of Part 2 to undertake consultation in good faith with respect to the making of a ratio variation;

(b) whether any injunction has been granted by the Magistrates' Court under section 42(1)(b) during that year in respect of the operator;

(c) whether any civil penalty has been imposed on the operator by the Magistrates' Court under section 43 during that year and, if so, the amount of that penalty;

(d) whether the operator has been issued with a safe patient care compliance direction during that year;

(e) the action taken during that year by the operator subsequent to any finding referred to in paragraph (a).
Part 4—Enforcement

41 Local dispute resolution

(1) A nurse or midwife who works at a hospital covered by a ratio or a relevant union (as representative of the nurse or midwife) may notify the operator of the hospital of an alleged breach of the ratio or a ratio variation.

(2) A local dispute must be resolved in accordance with any prescribed resolution procedures.

(3) The parties to a local dispute must act in good faith during the resolution of that dispute under subsection (2).

(4) If a party to a local dispute incurs costs in resolving that dispute, that party must bear the party's own costs.

(5) This section does not apply to breaches that—

   (a) are alleged to have occurred during the period commencing on the day on which Part 2 of the Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Amendment Act 2018 comes into operation and ending 180 days after that day; and

   (b) are in relation to staffing requirements which are in operation consequent to amendments made by that Part.

42 Referral to Magistrates' Court

(1) If the parties to a local dispute are not able to resolve the dispute in accordance with section 41, the Magistrates' Court, on an application by a party, may do any or all of the following—

   (a) make a declaration that the operator of the hospital complied with or did not comply with any or all of the following—
(i) a ratio;
(ii) a ratio variation;
(iii) a requirement by or under Division 4 of Part 2 to undertake consultation in good faith with respect to the making of a ratio variation;

(b) grant an injunction restraining the operator of the hospital from contravening or continuing to contravene any or all of the following—
   (i) a ratio;
   (ii) a ratio variation;
   (iii) a requirement by or under Division 4 of Part 2 to undertake consultation in good faith with respect to the making of a ratio variation.

(2) Subsection (1) applies despite section 100(2)(a) of the Magistrates' Court Act 1989.

(3) If an application is made under subsection (1), the Magistrates' Court may grant an interim injunction in respect of that application restraining the operator of the hospital from engaging in or continuing the course of conduct the subject of the application pending the determination of the application.

(4) An interim injunction has effect until either of the following occurs—
   (a) the application under subsection (1) is determined;
   (b) the interim injunction is revoked by a court.

(5) If the Magistrates' Court grants an interim injunction, the Magistrates' Court must determine the substantive application as a matter of urgency.
(6) In deciding whether to make a declaration or grant an injunction under this section, the Magistrates' Court must not consider the clinical aspects of the matter the subject of the dispute.

43 Civil penalty

(1) If the Magistrates' Court makes a declaration under section 42(1)(a) that the operator of a hospital did not comply with a ratio or a ratio variation, the Magistrates' Court may make an order imposing a penalty not exceeding 60 penalty units on the operator.

(2) The Magistrates' Court may impose a penalty on the operator only if satisfied that the non-compliance was wilful and serious.

(3) A penalty imposed under this section is to be paid into the Consolidated Fund.

(4) An order imposing a penalty under this section is taken, for the purposes of enforcement, to be an order made in a civil proceeding.

(5) Nothing in this section is to be taken as creating an offence for non-compliance with a ratio or a ratio variation.

44 Notification requirements

(1) A person who makes an application to the Magistrates' Court under section 42(1) must notify the Secretary of that application as soon as practicable, but in any case not more than 7 days after the application is made.

(2) If the Magistrates' Court makes a declaration or grants an injunction under section 42, the principal registrar within the meaning of the Magistrates' Court Act 1989 must notify the Secretary of the making of that declaration or the granting of that injunction within 7 days.
Part 5—General

45 Regulations

(1) The Governor in Council may make regulations for or with respect to any matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to this Act.

(2) The regulations—

(a) may be of general or limited application;

(b) may differ according to differences in time, place or circumstances;

(c) may require matters affected by the regulations to be—

(i) in accordance with specified standards or specified requirements; or

(ii) approved by or to the satisfaction of a specified person or body or a specified class of persons or bodies; or

(iii) as specified in both subparagraphs (i) and (ii);

(d) may leave any matter or thing to be from time to time determined, applied, dispensed with or regulated by a specified person;

(e) may provide in a specified case or class of cases for the exemption of persons or things or a class of persons or things from any of the provisions of the regulations—

(i) whether unconditionally or on specified conditions; and

(ii) either wholly or to such an extent as is specified.
Part 6—Savings and transitional

46 Meaning of Agreement

In this Part—


CWMA has the meaning given by clause 4(f) of the Agreement, but including any variations made in accordance with clause 42 of the Agreement.

47 Pre-existing higher staffing arrangements

(1) If an above ratio CWMA is in effect immediately before the commencement of this section, a staffing requirement provided for in that CWMA—

(a) applies for the purposes of this Act as if it were a ratio, instead of or in addition to (as applicable) any ratio that would apply under this Act; and

(b) is taken to be a ratio for the purposes of Division 4 of Part 2.

(2) In subsection (1), above ratio CWMA means a CWMA that—

(a) requires the operator of a hospital to staff a ward with a higher number of nurses or midwives than otherwise required under a ratio; and

(b) is the subject of a formal written agreement with a person who or body that is entitled to make that agreement; and
(c) except in the case of an agreement at hospital
level to provide equivalent full-time nurses
or midwives with no additional recurrent
funding, is funded by a person who or body
that has responsibility to provide that
funding.

48 Pre-existing lower staffing arrangements

(1) If a below ratio CWMA is in effect immediately
before the commencement of this section, a
staffing requirement provided for in that CWMA
applies for the purposes of this Act as if it were a
ratio, instead of the ratio that would otherwise
apply under this Act, until that CWMA is
terminated or otherwise ceases to have effect.

(2) A below ratio CWMA applying as if it were a
ratio under subsection (1) terminates and ceases to
have effect on the first anniversary of the
commencement of this section.

(3) In this section, below ratio CWMA means a
CWMA that permits the operator of a hospital to
staff a ward with a lower number of nurses or
midwives than required under a ratio.

49 Saving of pre-existing variations

(1) A redistribution of nursing or midwifery hours
under clause 42.2 of the Agreement that permits a
hospital to staff a ward with a lower number of
nurses or midwives than required under a ratio,
and as in effect immediately before the
commencement of this subsection, is taken to be a
redistribution under section 33(1).

(2) A distribution under clause 42.3 of the Agreement
that permits a hospital to staff a ward with a lower
number of nurses or midwives than required under
a ratio, and as in effect immediately before the
commencement of this subsection, is taken to be a
below ratios distribution.
(3) An alternative staffing model under clause 42.4 of the Agreement that permits a hospital to staff a ward with a lower number of nurses or midwives than required under a ratio, and as in effect immediately before the commencement of this subsection, is taken to be a trial under section 35(1).

(4) Any arrangement other than that specified in subsection (1), (2) or (3) made under the Agreement to reduce the number of nurses or midwives in a ward to a level that is lower than that required by any ratio and as in effect immediately before the commencement of this subsection is taken to be an agreement under section 36(1).

50 Saving of variations and redistributions—Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Amendment Act 2018

(1) Despite the repeal of section 33 as in force immediately before the commencement of section 15 of the Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Amendment Act 2018, an operator of a hospital that complies with—

(a) a redistribution proposal made and implemented in accordance with section 33 before that repeal; or

(b) a redistribution of nursing or midwifery hours taken under section 49(1) before that repeal to be a redistribution under section 33(1)—

is taken to comply with the relevant ratio during the relevant specified period.

(2) Despite the repeal of section 34 as in force immediately before the commencement of section 15 of the Safe Patient Care (Nurse to
Patient and Midwife to Patient Ratios) Amendment Act 2018, an operator of a hospital that implements—

(a) a below ratios distribution that is in effect immediately before that repeal; or

(b) a distribution of nursing or midwifery hours taken under section 49(2) before that repeal to be a below ratios distribution—

is taken to comply with the relevant ratio during the relevant specified period.

(3) Despite the repeal of section 35 as in force immediately before the commencement of section 15 of the Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Amendment Act 2018, an operator of a hospital that applies—

(a) an alternative staffing model in accordance with section 35(2) or (3) immediately before that repeal; or

(b) an alternative staffing model taken under section 49(3) before that repeal to be a trial under section 35(1)—

is taken to comply with the relevant ratio for the duration of the application of that model.
## Schedule 1—Level 1, 2 and 3 hospitals

### Part 1—Level 1 hospitals

Alfred Hospital  
Austin Hospital  
Box Hill Hospital  
Casey Hospital  
Dandenong Hospital  
Footscray Hospital  
Frankston Hospital  
Heidelberg Repatriation Hospital  
Monash Children's Hospital  
Monash Medical Centre (Clayton)  
Northern Hospital  
Peter MacCallum Cancer Centre  
St Vincent's Hospital  
Sunshine Hospital  
The Royal Children's Hospital  
The Royal Melbourne Hospital  
University Hospital Geelong

### Part 2—Level 2 hospitals

Ballarat Base Hospital  
Bendigo Hospital  
Goulburn Valley Health  
Latrobe Regional Hospital  
Maroondah Hospital  
Mercy Hospital for Women
New Mildura Base Hospital
Northeast Health Wangaratta

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The Royal Women's Hospital
Werribee Mercy Hospital

Part 3—Level 3 hospitals

Albury Wodonga Health (Wodonga campus)
Angliss Hospital
Bairnsdale Regional Health Service
Castlemaine Health
Central Gippsland Health Service (Sale campus)
Echuca Regional Health
Hamilton Base Hospital
Monash Medical Centre (Moorabbin)
Portland District Health
Rosebud Hospital
Sandringham Hospital
Swan Hill District Health
The Royal Victorian Eye and Ear Hospital
Warrnambool Base Hospital
West Gippsland Hospital
Williamstown Hospital
Wimmera Health Care Group (Horsham campus)
Schedule 2—Hospitals not restricted in use of enrolled nurses

Albury Wodonga Health (Wodonga campus)
Alexandra District Hospital
Alpine Health (Bright campus)
Alpine Health (Mt Beauty campus)
Alpine Health (Myrtleford campus)
Angliss Hospital
Ararat Hospital
Bairnsdale Regional Health Service
Beaufort and Skipton Health Service
Beechworth Health Service
Benalla Health
Boort District Health
Calvary Health Care Bethlehem Limited
Casterton Memorial Hospital
Castlemaine Health
Caulfield Hospital
Central Gippsland Health Service (Heyfield campus)
Central Gippsland Health Service (Maffra campus)
Central Gippsland Health Service (Sale campus)
Cobram District Health
Cohuna District Hospital
Colac Area Health
Djerriwarrh Health Services
Dunmunkle Health Services
Eastern Health (Peter James Centre)
Eastern Health (Yarra Ranges Health)
East Grampians Health Services (Ararat Services)
East Wimmera Health Service (Birchip campus)
East Wimmera Health Service (Charlton campus)
East Wimmera Health Service (Donald campus)
East Wimmera Health Service (St Arnaud campus)
East Wimmera Health Service (Wycheproof campus)
Echuca Regional Health
Edenhope and District Memorial Hospital
Goulburn Valley Health (Tatura campus)
Goulburn Valley Health (Waranga campus)
Hamilton Base Hospital
Heathcote Health
Hepburn Health Service (Creswick campus)
Hepburn Health Service (Daylesford campus)
Hesse Rural Health
Heywood Rural Health
Hopetoun Hospital
Inglewood and Districts Health Service
Jeparit Hospital
Kaniva Hospital
Kerang District Health
Kilmore and District Hospital
Kooweerup Regional Health Service
Korumburra Hospital
Kyabram and District Health Services
Kyneton District Health Service
Leongatha Hospital
Lorne Community Hospital
Maldon Hospital
Mallee Track Health and Community Service
Mansfield District Hospital
Maryborough District Health Service
Monash Health (Monash Health Community)
Moorabbin Hospital
Moyne Health Services
Nathalia District Hospital
Nhill Hospital
Numurkah and District Health Services
Omeo District Health
Orbost Regional Health
Otway Health
Penshurst and District Health
Portland District Health
Queen Elizabeth Centre
Rainbow Hospital
Robinvale District Health Services (Manangatang campus)
Robinvale District Health Services (Robinvale campus)
Rochester and Elmore District Health Service
Rosebud Hospital
Rural Northwest Health (Warracknabeal campus)
St Vincent's Palliative Care Services (Kew)
Sandringham Hospital
Seymour Health
Schedule 2—Hospitals not restricted in use of enrolled nurses

South Gippsland Hospital
South West Healthcare
Stawell Regional Health
* * * * *
Swan Hill District Health
Tallangatta Health Service
Terang and Mortlake Health Services
The Royal Victorian Eye and Ear Hospital
Timboon and District Healthcare Service
Upper Murray Health and Community Services
West Gippsland Hospital
West Wimmera Health Service (Namatjira Centre)
Western District Health Service (Coleraine campus)
Williamstown Hospital
Wimmera Health Care Group (Dimboola campus)
Wimmera Health Care Group (Horsham campus)
Wonthaggi Hospital
Yarram and District Health Service
Yarrawonga Health
Yea and District Memorial Hospital
Schedule 3—Categories of hospitals for emergency department ratios

Part 1

Alfred Hospital
Angliss Hospital
Austin Hospital
Ballarat Base Hospital
Bendigo Hospital
Box Hill Hospital
Casey Hospital
Dandenong Hospital
Footscray Hospital
Frankston Hospital
Goulburn Valley Health (Shepparton campus)
Latrobe Regional Hospital
Maroondah Hospital
Monash Medical Centre (Clayton)
New Mildura Base Hospital
Northern Hospital
St Vincent's Hospital
Sunshine Hospital
The Royal Children's Hospital
The Royal Melbourne Hospital (City campus)
University Hospital Geelong
Werribee Mercy Hospital
Part 2
Albury Wodonga Health (Wodonga campus)
Bairnsdale Regional Health Service
Rosebud Hospital
Sandringham Hospital
Warrnambool Base Hospital
Williamstown Hospital
Wimmera Base Hospital (Horsham campus)

Part 3
Central Gippsland Health Service (Sale campus)
Echuca Regional Health
Northeast Health Wangaratta
Swan Hill District Health
The Royal Victorian Eye and Ear Hospital
The Royal Women's Hospital
West Gippsland Hospital
Endnotes

1 General information


Minister's second reading speech—
Legislative Assembly: 2 September 2015
Legislative Council: 17 September 2015

The long title for the Bill for this Act was "A Bill for an Act to specify requirements that the operators of certain publicly funded health facilities staff certain wards with a minimum number of nurses or midwives, to provide for the reporting of compliance with, and enforcement of, those requirements and for other purposes."

The Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Act 2015 was assented to on 13 October 2015 and came into operation on 23 December 2015: Special Gazette (No. 426) 22.12.15 p. 2.

INTERPRETATION OF LEGISLATION ACT 1984 (ILA)

Style changes
Section 54A of the ILA authorises the making of the style changes set out in Schedule 1 to that Act.

References to ILA s. 39B
Sidenotes which cite ILA s. 39B refer to section 39B of the ILA which provides that where an undivided section or clause of a Schedule is amended by the insertion of one or more subsections or subclauses, the original section or clause becomes subsection or subclause (1) and is amended by the insertion of the expression "(1)" at the beginning of the original section or clause.

Interpretation
As from 1 January 2001, amendments to section 36 of the ILA have the following effects:

- **Headings**

  All headings included in an Act which is passed on or after 1 January 2001 form part of that Act. Any heading inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. This includes headings to Parts, Divisions or Subdivisions in a Schedule; sections; clauses; items; tables; columns; examples; diagrams; notes or forms. See section 36(1A)(2A).
Endnotes

- **Examples, diagrams or notes**
  All examples, diagrams or notes included in an Act which is passed on or after 1 January 2001 form part of that Act. Any examples, diagrams or notes inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, form part of that Act. See section 36(3A).

- **Punctuation**
  All punctuation included in an Act which is passed on or after 1 January 2001 forms part of that Act. Any punctuation inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. See section 36(3B).

- **Provision numbers**
  All provision numbers included in an Act form part of that Act, whether inserted in the Act before, on or after 1 January 2001. Provision numbers include section numbers, subsection numbers, paragraphs and subparagraphs. See section 36(3C).

- **Location of "legislative items"**
  A "legislative item" is a penalty, an example or a note. As from 13 October 2004, a legislative item relating to a provision of an Act is taken to be at the foot of that provision even if it is preceded or followed by another legislative item that relates to that provision. For example, if a penalty at the foot of a provision is followed by a note, both of these legislative items will be regarded as being at the foot of that provision. See section 36B.

- **Other material**
  Any explanatory memorandum, table of provisions, endnotes, index and other material printed after the Endnotes does not form part of an Act. See section 36(3)(3D)(3E).
<table>
<thead>
<tr>
<th>2 Table of Amendments</th>
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<tbody>
<tr>
<td>This publication incorporates amendments made to the Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Act 2015 by Acts and subordinate instruments.</td>
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</tbody>
</table>

| Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Amendment Act 2019, No. 1/2019 |
| Assent Date: | 26.2.19 |
| Commencement Date: | Ss 4–20 on 1.3.19: s. 2(1) |
| Current State: | This information relates only to the provision/s amending the Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Act 2015 |
3 Amendments Not in Operation

This publication does not include amendments made to the Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Act 2015 by the following Act/s.

Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Amendment Act 2019, No. 1/2019

<table>
<thead>
<tr>
<th>Assent Date:</th>
<th>26.2.19</th>
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<tbody>
<tr>
<td>Commencement Date:</td>
<td>Ss 21–25 on 1.3.20: s. 2(2); ss 26, 27 on 1.3.21: s. 2(3)</td>
</tr>
<tr>
<td>Current State:</td>
<td>This information relates only to the provision/s amending the Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Act 2015</td>
</tr>
</tbody>
</table>

At the date of this publication, the following provisions amending the Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Act 2015 were Not in Operation:

Amending Bill/s:

Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Amendment Act 2019, No. 1/2019

21 Definitions

(1) In section 3 of the Principal Act insert the following definitions—

"acute stroke ward means a multi-day inpatient ward, or part of such a ward—

(a) in which comprehensive care and monitoring of patients with strokes in the hyperacute or the acute phase is provided; and

(b) that has the capacity to provide thrombolysis;

haematology ward means a multi-day inpatient ward, or part of such a ward, that is dedicated to the care of patients with blood cancers and related diseases primarily affecting bone marrow or blood cells and in which—
(a) treatment is provided involving complex and high dose chemotherapy regimens and stem cell transplants; and
(b) symptoms including, but not limited to, sepsis, febrile neutropenia, tumour lysis syndrome and disseminated intravascular coagulopathy are managed;

oncology ward means a multi-day inpatient ward, or part of such a ward—
(a) dedicated to the care and non-surgical treatment of patients with cancer (other than those receiving treatment in a haematology ward); and
(b) that has the capacity to administer complex chemotherapy;".

(2) In section 3 of the Principal Act, in paragraph (a) of the definition of acute ward, after "injury" insert "other than those patients receiving care in an acute stroke ward".

22 New sections 21A, 21B and 21C inserted

After section 21 of the Principal Act insert—

"21A Acute stroke wards

The operator of a hospital must staff a ward that is an acute stroke ward on all shifts with—

(a) one nurse for every 3 patients; and
(b) one nurse in charge."
21B Oncology wards

The operator of a hospital must staff a ward that is an oncology ward as follows—

(a) on the morning shift or the afternoon shift—
   (i) one nurse for every 4 patients; and
   (ii) one nurse in charge;

(b) on the night shift—
   (i) one nurse for every 8 patients; and
   (ii) one nurse in charge.

21C Haematology wards

The operator of a level 1 hospital must staff a ward that is a haematology ward as follows—

(a) on the morning shift or the afternoon shift—
   (i) one nurse for every 3 patients; and
   (ii) one nurse in charge;

(b) on the night shift—
   (i) one nurse for every 5 patients; and
   (ii) one nurse in charge.

23 Palliative care inpatient units

(1) In section 23(b)(i) of the Principal Act, for "5 patients" substitute "4 patients".

(2) For section 23(c) of the Principal Act substitute—
   "(c) on the night shift—
   (i) one nurse for every 6 patients; and
   (ii) one nurse in charge.".
24 Special care nurseries

For section 27(1) of the Principal Act substitute—

"(1) The operator of a hospital must staff a ward that is a special care nursery as follows—

(a) in the case of 7 or fewer occupied cots, on all shifts—

(i) one nurse or midwife; and

(ii) for every 4 additional occupied cots beyond 4, one person, being either a nurse or a midwife;

Note

See subsection (2) in relation to requirements for 6 occupied cots.

(b) in the case of 8 or 9 occupied cots—

(i) on the morning shift or the afternoon shift—

(A) one nurse or midwife; and

(B) for every 4 additional occupied cots beyond 4, one person, being either a nurse or a midwife; and

(C) a nurse in charge or a midwife in charge; and

(ii) on the night shift—

(A) one nurse or midwife; and

(B) for every 4 additional occupied cots beyond 4, one person, being either a nurse or a midwife;
(c) in the case of 10 occupied cots—
   (i) on the morning shift or the afternoon shift—
      (A) 3 persons, each being either a nurse or a midwife; and
      (B) a nurse in charge or a midwife in charge; and
   (ii) on the night shift, 3 persons, each being either a nurse or a midwife;

(d) in the case of 11 or more occupied cots—
   (i) on the morning shift or the afternoon shift—
      (A) 4 persons, each being either a nurse or a midwife; and
      (B) for every 3 additional occupied cots beyond 11, one person, being either a nurse or a midwife; and
      (C) a nurse in charge or a midwife in charge; and
   (ii) on the night shift—
      (A) 4 persons, each being either a nurse or a midwife; and
      (B) for every 3 additional occupied cots beyond 11, one person, being either a nurse or a midwife.".
25 Birthing suites

For section 31(1) of the Principal Act

substitute—

"(1) Subject to subsection (2), the operator of a
level 1 hospital, a level 2 hospital or a level 3
hospital must ensure that—

(a) 2 midwives for every 3 nominated
birthing suites are provided on all
shifts; and

(b) in the case of a hospital with 6 or
more nominated birthing suites, on the
morning shift, a midwife in charge is
provided."

26 Definitions

In section 3 of the Principal Act insert the
following definition—

"resuscitation bed means a bed in an emergency
department that is allocated for the
assessment, resuscitation and treatment of
patients with critical conditions and that is
being used for that purpose;".

27 Emergency departments

(1) In section 20(1)(a)(i) of the Principal Act, after
"beds" insert "(including any resuscitation bed)".

(2) In section 20(1)(b) of the Principal Act—

(a) in subparagraph (i), after "beds" insert
"(not including any resuscitation bed)";

(b) after subparagraph (i) insert—

"(ia) one nurse for each resuscitation bed;
and".
(3) In section 20(1)(c) of the Principal Act—

(a) in subparagraph (i), after "beds" insert "(not including any resuscitation bed)";

(b) after subparagraph (i) insert—

"(ia) one nurse for each resuscitation bed; and".
4 Explanatory details

No entries at date of publication.