

Hospital and Health Boards (Nursing and Midwifery Workload Management Standard) Notice 2016

Explanatory notes for SL 2016 No. 105

made under the

Hospital and Health Boards Act 2011

General Outline

Short title

Hospital and Health Boards (Nursing and Midwifery Workload Management Standard) Notice 2016

Authorising law

Section 138E(5) 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* 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.

In addition to enabling minimum ratios to be prescribed in regulation, the Hospital and Health Boards Act enables the chief executive of Queensland Health to make a standard about nursing and midwifery workload management to ensure that prescribed wards are staffed with an appropriate number, and skill mix, of nursing staff to meet clinical service demands. A standard may include requirements for how a Hospital and Health Service calculates its nursing and midwifery staffing requirements; develops and implements strategies to manage staff supply and demand; or evaluates staff performance.

Pursuant to section 138E(1) of the Hospital and Health Boards Act, the Director-General, Queensland Health has made the *Nursing and Midwifery Workload Management Standard* (the Standard). The Standard incorporates key elements of the Queensland Health *Business Planning Framework: a tool for nursing workload management* (Business Planning Framework).

The Business Planning Framework is an industrially-mandated planning tool used by Hospital and Health Services to calculate the appropriate nursing and midwife hours, and skill mix of staff, required to manage clinical service demands and provide an appropriate, professional and safe standard of service.

When it commences, the Standard will apply to the prescribed wards and prescribed facilities to which mandatory nurse-to-patient and midwife-to-patient ratios apply under the *Hospital and Health Boards Regulation 2012*.

Achievement of policy objectives

The Standard has no effect unless the Minister for Health and Minister for Ambulance Services (the Minister) notifies the making of the Standard. In compliance with section 138E(5) of the Hospital and Health Boards Act, the Notice notifies the making of the Standard.

Consistency with policy objectives of authorising law

The Notice is consistent with the policy objectives of the Hospital and Health Boards 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

The Notice is the only effective means of notifying the making of the Standard.

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

Whether legislation has sufficient regard for the institution of Parliament – *Legislative Standards Act 1992*, sections 4(4) and 4(5)

The Standard made under section 138E(1) of the Hospital and Health Boards Act is not subordinate legislation, so it may be argued that the making of the Standard does not have sufficient regard to the institution of Parliament.

To address this potential breach of fundamental legislative principles, section 138E(5) of the Hospital and Health Boards Act requires that the Minister must notify the making of a standard about nursing and midwifery workload management. Further, section 138E(6) provides that the Minister's notice is subordinate legislation.

As subordinate legislation, the Minister's notice is subject to the requirements of section 49 of the *Statutory Instruments Act 1992*, which specifies that in order for subordinate legislation to come into effect, it must be tabled in the Legislative Assembly within 14 sitting days after it is notified under section 47 of the *Statutory Instruments Act 1992*. Once a notice is tabled, the notice could be disallowed under section 50 of the *Statutory Instruments Act 1992*. Should a notice be disallowed, the relevant standard would cease to have any effect.

To inform the Legislative Assembly's consideration of the Notice, the Minister will table the Standard as soon as possible after the Notice has been tabled.

Consultation

In September 2015, an exposure draft of the Standard 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 Standard.

The Office of Best Practice Regulation (OBPR) within the Queensland Productivity Commission was also consulted regarding the legislative framework for mandating minimum nurse-to-patient and midwife-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 Notice.

Notice of making of standard

Clause 2 notifies the making of the *Nursing and Midwifery Workload Management Standard* under section 138E(1) of the *Hospital and Health Boards Act 2011*, and provides that the Standard takes effect on 1 July 2016.

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