

# Health Legislation Amendment Regulation 2020

Explanatory notes for SL 2020 No. 16

made under the

*Health Act 1937*

*Health Ombudsman Act 2013*

*Hospital and Health Boards Act 2011*

## General Outline

### Short title

*Health Legislation Amendment Regulation 2020*

### Authorising law

Section 180 of the *Health Act 1937*

Section 292 of the *Health Ombudsman Act 2013*

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

### Policy objectives and the reasons for them

The purpose of the *Health Legislation Amendment Regulation 2020* (Amendment Regulation) is to:

- amend the *Hospital and Health Boards Regulation 2012* (HHB Regulation) to implement the operational aspects of the aged care ratios for public residential aged care facilities (RACFs) by prescribing requirements for a minimum percentage of nurses and registered nurses, and minimum average daily resident care hours;
- amend the HHB Regulation to enable nurses, midwives and paramedics registered under the Health Practitioner Regulation National Law to access The Viewer;
- amend the *Health (Drugs and Poisons) Regulation 1996* (HDPR) to enable pharmacists to administer vaccines and adrenaline to individuals aged 10 years or older; and
- amend the *Health Ombudsman Regulation 2014* to make consequential amendments as a result of the *Health Transparency Act 2019* and to recognise orders made under corresponding Victorian legislation.

### *Aged care ratios*

The Health Transparency Act amended the *Hospital and Health Boards Act 2011* (HHB Act) to implement a legislative framework that introduces aged care ratios in public RACFs. The aged care ratios will ensure residents receive a minimum level of care from an appropriately qualified mix of staff in Queensland public RACFs.

New sections 138G to 138M of the HHB Act provide for a minimum percentage of nurses and registered nurses and minimum average daily resident care hours to be prescribed by regulation. Prescribing these matters in regulation ensures the legislative framework has sufficient operational flexibility to adjust if changes are needed to the ratios and care hours in the public aged care sector over time.

### *Access to The Viewer*

Sections 142 and 142A of the HHB Act provide a duty of confidentiality for designated persons and prescribed health practitioners respectively. Section 143(2)(e) permits disclosure of confidential information if that information is provided to a prescribed health practitioner by a designated person by giving the prescribed health practitioner access to a prescribed information system.

Under section 34B of the HHB Regulation, The Viewer is a prescribed information system for the HHB Act. The Viewer is Queensland Health's read-only web-based application that displays a consolidated view of patients' clinical and demographic information from a variety of Queensland Health clinical and administrative systems. Prescribed health practitioners can access The Viewer via the Health Provider Portal, which provides read-only, secure access.

Section 34A of the HHB Regulation prescribes who is a prescribed health practitioner for the HHB Act and is therefore able to access The Viewer. Currently, only medical practitioners can access The Viewer.

Transfer of patient care between acute settings such as hospitals and community settings does not only involve transferring care to a general practitioner or other medical practitioner. Transfer of care also occurs between acute settings and other health practitioners, community services and aged care facilities.

Health practitioners providing community-based clinical services and primary health care to Queenslanders often need to work with Queensland Health during the transfer of patient care between acute and community settings. There is a range of valuable information available in The Viewer that complements the information provided in a hospital discharge summary, such as radiology and pathology results, emergency department discharge summaries, medications, alerts, outpatient appointment details, and instructions for follow up treatment.

Health practitioners that are unable to access The Viewer must manually request this information from Queensland Health. This creates delays in the provision of relevant clinical information that would otherwise enable prompt clinical decision making and prevent the duplication of tests.

The Amendment Regulation will expand the definition of *prescribed health practitioner* to enable nurses, midwives and paramedics registered under the Health Practitioner Regulation National Law to access The Viewer.

Many nurses work in private practice including private hospitals, RACFs and non-government organisations. They provide care that includes personal care (such as wound care and medication administration), and support activities such as nutrition, as well as co-ordinating care from other services such as allied health practitioners. Information that nurses would benefit from accessing through The Viewer includes a patient's history of care in the emergency department and inpatient and outpatient settings, procedures undertaken, medication prescribed, results of pathology and imaging investigations, and care plans.

Many midwives work in private practice, including private hospitals. They provide personal care, education and support to expectant mothers during pregnancy and the postpartum period. Midwives would benefit from being able to access information in The Viewer including a patient's history of care, procedures undertaken, medication prescribed and results of imaging and pathology investigations. For example, a private midwife could access information relating to a patient's previous pregnancy from The Viewer to assist in providing advice about a current pregnancy.

Paramedics are involved in rapid response, emergency medical assessment, treatment and care of patients in and out of the hospital environment. They will also benefit from being able to access patients' history of care, procedures undertaken, medication prescribed, pathology and imaging results and care plans.

Nurses and paramedics both play an important role in providing transfer of care between hospitals and RACFs. Giving these health professionals access to The Viewer will ensure that patients and residents transferring between hospitals and RACFs can have their health information shared more easily and will assist in ensuring appropriate follow up care and prevent unnecessary hospital re-admissions.

### ***Pharmacists vaccinating persons 10 years or older***

Section 171(5) of the HDPR authorises pharmacists to administer a vaccine to a person 16 years or older under the Pharmacist Vaccination Program Drug Therapy Protocol (DTP). Similarly, section 257(2) of the HDPR authorises pharmacists to administer adrenalin of a strength of 0.1% or less to a person 16 years or older under the same DTP. The current DTP provides for a pharmacist to administer specified vaccines, such as the influenza vaccine, and adrenalin to manage anaphylaxis, in accordance with the requirements of the DTP.

The Australian Health Protection Principal Committee (AHPPC) includes representatives from the Health departments of all States, Territories and the Commonwealth. The AHPPC reports through the Australian Health Ministers' Advisory Council (AHMAC) to the Council of Australian Governments (COAG) Health Council, which consists of all Australian Health Ministers. All decisions of AHPPC are overseen by AHMAC and the COAG Health Council.

The AHPPC established a working group of experts to consider a nationally consistent approach to vaccinations by pharmacists. In November 2019, AHPPC members gave their in-principle support for pharmacists to administer low risk vaccines to people aged 10 years and older. AHPPC members noted current pharmacist administration of the influenza vaccine to persons who are aged 10 years or more in some jurisdictions. In 2019, Western Australia and Tasmania permitted pharmacist administration of the influenza vaccine from 10 years of age and South Australia and Victoria are expected to implement this approach from 2020.

In October 2018, the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee recommended that the Department of Health explore options for pharmacist-administered low risk vaccines as part of the *Inquiry into the establishment of a pharmacy council and transfer of pharmacy ownership in Queensland (Report No. 12, 56th Parliament)*.

The Queensland Chief Health Officer has endorsed pharmacists administering the influenza vaccine to persons aged 10 years and older and has recommended this approach be put in place for the upcoming 2020 influenza season.

The policy objective is to amend the HDPR to enable pharmacists to administer vaccines and adrenalin to individuals aged 10 years or older under with the DTP. This will improve access to influenza vaccinations for persons between 10 and 16 years old, lead to better health outcomes for patients and help to manage the upcoming and future influenza seasons.

Section 171(1) of the HDPR authorises pharmacists to undertake certain activities to practise pharmacy. Section 171(2) allows a trainee pharmacist to do anything a pharmacist is permitted to do under section 171(1), if the trainee pharmacist does it under the direction and personal supervision of a pharmacist. For consistency with the current approach for other functions of a pharmacist, it is proposed to allow trainee pharmacists to administer vaccines and adrenalin under a pharmacist's direction and personal supervision under the DTP. This will provide a training platform for trainee pharmacists to gain the skills necessary to administer vaccines once they become registered pharmacists.

### ***Health Ombudsman Regulation – Consequential amendments and recognising Victorian interim prohibition orders and prohibition orders***

The Health Ombudsman Act provides for interim prohibition orders and prohibition orders. These orders can prohibit or restrict a health practitioner who is not registered under the Health Practitioner Regulation National Law from providing any health service or a specific health service.

The Health Ombudsman Act also enables the Health Ombudsman to enforce interim prohibition orders and prohibition orders that are issued in another state or territory, if the order corresponds or substantially corresponds to a Queensland order. For an interstate order to be enforceable, the type of order must be prescribed by regulation.

Sections 3 and 4 of the Health Ombudsman Regulation prescribe interim prohibition orders and prohibition orders made under corresponding interstate legislation.

The Victorian *Health Complaints Act 2016* was made after the Queensland Health Ombudsman Act and Regulation were in place.

Section 90 of the Victorian Health Complaints Act gives the Victorian Health Complaints Commissioner the power to prohibit a general health service provider from providing services for up to 12 weeks or to impose conditions on the provider. This order substantially corresponds to an interim prohibition order under the Health Ombudsman Act. It is proposed to add a reference to an interim prohibition order under the Victorian Health Complaints Act to section 3 of the Health Ombudsman Regulation to recognise an order made under section 90 as a corresponding interstate interim order.

Section 95 of the Victorian Health Complaints Act gives the Victorian Commissioner the power to prohibit a general health service provider from providing services or to impose conditions on the provider, either permanently or for a period specified in the order. This order substantially corresponds to a prohibition order under the Health Ombudsman Act. It is proposed to add a reference to a prohibition order under the Victorian Health Complaints Act to section 4 of the Health Ombudsman Regulation to recognise an order made under section 95 as a corresponding interstate order.

The Health Transparency Act amended the Health Ombudsman Act, including repealing section 114 and replacing it with new section 90O. It is proposed to make a consequential amendment to the Health Ombudsman Regulation to replace the reference to section 114 in section 4 with a reference to new section 90O.

## **Achievement of policy objectives**

### *Aged care ratios*

The Amendment Regulation amends the HHB Regulation to implement the operational aspects of the aged care ratios for public RACFs under new part 6, division 5 of the HHB Act. The Amendment Regulation prescribes the following requirements for public RACFs:

- a minimum nurse percentage, that is, registered nurses and enrolled nurses must comprise 50 per cent of the total care staff, with a minimum of 30 per cent required to be registered nurses, during each 24-hour period; and
- a minimum average daily resident care requirement of 3.65 hours.

The Amendment Regulation also prescribes the public RACFs that are subject to the minimum nurse percentage and minimum daily resident care requirements. Public RACFs are referred to as “State aged care facilities” to ensure consistency with section 61A of the *Public Health Act 2005*.

### *Access to The Viewer*

The Amendment Regulation amends the HHB Regulation to prescribe additional types of registered health practitioners for the definition of *prescribed health practitioner* in section 139 of the HHB Act. The new professions being prescribed are nurses holding general or provisional registration; midwives holding general or provisional registration; and paramedics holding general registration. Prescribing these additional professions in the HHB Regulation will enable these practitioners to access The Viewer.

### *Pharmacists vaccinating persons 10 years or older*

The Amendment Regulation amends the HDPR to enable pharmacists to administer a vaccine or adrenalin to a person who is 10 years old or more under the DTP.

The DTP will be revised to provide that the influenza vaccine and adrenalin can be administered to a person who is 10 years old or more. The DTP is subject to change as new or emerging vaccines are determined to be necessary. This determination is made by the chief executive of Queensland Health, or their delegate, as required.

The Amendment Regulation also amends the HDPR to allow trainee pharmacists to administer the same vaccines and adrenaline as a registered pharmacist, under a pharmacist's direction and personal supervision.

### ***Health Ombudsman Regulation – Consequential amendments and recognising Victorian interim prohibition orders and prohibition orders***

The Amendment Regulation amends the Health Ombudsman Regulation to:

- prescribe interim prohibition orders made under section 90 of the Victorian Health Complaints Act as a corresponding interstate interim order;
- prescribe prohibition orders made under section 95 of the Victorian Health Complaints Act as a corresponding interstate order; and
- make a consequential amendment to update a reference to the new section 90O of the Health Ombudsman Act.

## **Consistency with policy objectives of authorising law**

The Amendment Regulation is consistent with the policy objectives of the authorising Acts.

## **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 achieving the policy objectives.

## **Benefits and costs of implementation**

### ***Aged Care Ratios***

The implementation of aged care ratios in public RACFs will require public RACFs to redistribute staff or potentially increase the number of enrolled and registered nurses. This will be managed locally by Hospital and Health Services including by using natural attrition strategies. Further workforce management strategies may be required to support some facilities, particularly those in rural or regional locations, where there is an overall lack of aged care nurses.

Implementation and maintenance of the minimum care standards in public RACFs is expected to cost approximately \$10 million annually. This cost will be managed within Queensland Health's existing resources.

Aged care ratios will ensure residents in public RACFs receive a minimum level of care from an appropriately qualified mix of staff. Residents in public RACFs will benefit from improved safety and quality of care which will lead to better resident satisfaction and outcomes. The nursing workforce may potentially have safer workloads and improved staff retention and satisfaction.

### ***Access to The Viewer***

Allowing nurses, midwives and paramedics access to The Viewer will remove the need for them to manually seek information from Queensland Health. It is expected to reduce delays in the provision of clinical information and streamline processes for both Queensland Health and for these external practitioners.

An increase in the number of practitioners accessing The Viewer may increase the risk of unauthorised access or disclosure of confidential information. However, there are several safeguards in place to ensure that patients' personal information is protected. These are outlined in the discussion of fundamental legislative principles below.

### ***Pharmacists vaccinating persons 10 years or older***

This amendment will improve access to influenza vaccinations for persons between 10 and 16 years old in the coming and future influenza seasons, provide a greater role for pharmacists to be involved in providing low-risk vaccinations and improve efficiency in the overall use of resources across the health workforce. Pharmacists are also able to administer adrenalin if a person 10 years or older suffers anaphylaxis in response to the vaccination.

Allowing trainee pharmacists to administer the vaccines and adrenalin under a pharmacist's direction and personal supervision will improve the training of trainee pharmacists and assist them to gain the skills necessary to administer vaccines.

### ***Health Ombudsman Regulation – recognising Victorian interim prohibition orders and prohibition orders***

Recognising Victorian orders in Queensland will help to ensure that there is consistency in the application of prohibition orders across Queensland, New South Wales, Victoria and South Australia. It will also help to protect the Queensland public by ensuring a health practitioner who has an order made against them in Victoria is subject to the same restrictions if they seek to practice in Queensland, without the need for a separate investigation or regulatory process to be undertaken in Queensland.

## **Consistency with fundamental legislative principles**

The Amendment Regulation is generally consistent with fundamental legislative principles in the *Legislative Standards Act 1992*.

### ***Subdelegation***

The amendments to the HDPR to allow pharmacists to administer vaccines and adrenalin to persons aged 10 years or older and require pharmacists to do so under the DTP potentially breaches the fundamental legislative principle in section 4(5)(e) of the Legislative Standards Act that requires subordinate legislation to have sufficient regard to the institution of Parliament as it provides for a subdelegation of power. For subordinate legislation to have sufficient regard to the institution of Parliament, powers must only be delegated in appropriate cases to appropriate persons.

A DTP is a document certified by the chief executive of Queensland Health, or their delegate, that sets out matters of technical detail for the administration, possession and supply of substances. The DTP is monitored and updated when necessary to reflect the latest advice,

ensure it aligns with clinical best practice and is published on the Queensland Health website ([www.health.qld.gov.au](http://www.health.qld.gov.au)).

The vaccines to be approved for use by pharmacists through the DTP are health and medical decisions best undertaken by relevant medical and scientific experts. These decisions are made carefully and are informed by advice from AHPPC. The ability for pharmacists to administer vaccines is a rapidly evolving policy area and must respond quickly to changes in health conditions in the community. The amendments ensure that preventative health measures can be provided in a variety of ways that are convenient for consumers and families. It is considered that the rigour surrounding the development of the DTP, its use in ensuring Queenslanders receive restricted drugs based on best practice and training, and the technical nature of the document, justifies the need for the subdelegation.

### ***Disclosing confidential information***

Section 4(2)(a) of the Legislative Standards Act provides that fundamental legislative principles include requiring that legislation has sufficient regard to rights and liberties of individuals. The Amendment Regulation may potentially breach the principle that legislation must have sufficient regard to individuals' rights and liberties, as it expands the types of registered health practitioner that are able to be provided confidential information by being given access to The Viewer. However, there are appropriate safeguards to protect confidential information, including:

- health practitioners must complete a stringent registration process to access The Viewer;
- automated checking of health practitioners' professional credentials is performed each time they log in;
- health practitioners must agree to terms and conditions that detail their legal and professional obligations when they apply to access The Viewer;
- health practitioners are not able to perform general searches for patients and can only access details of patients for which they have unique identifying information, such as a Medicare card number;
- all access and activity is recorded in audit files, and regular audits and usage reports are conducted; and
- The Viewer can be configured to display or withhold information as deemed appropriate for the practitioner's clinical role and work context. Different levels of access can be configured for different categories of health practitioners.

The HHB Act also provides that it is an offence for a prescribed health practitioner to disclose confidential information unless authorised. A maximum penalty of 600 penalty units applies. Health practitioners can also be disciplined under the Health Ombudsman Act and Health Practitioner Regulation National Law for unprofessional conduct.

Given the benefits of sharing information with practitioners who work outside Queensland Health, it is considered that the privacy of individuals is sufficiently protected by the safeguards built into the arrangements for access to The Viewer.



### ***Recognising interstate orders***

The Amendment Regulation potentially breaches the principle in section 4(2)(a) of the Legislative Standards Act that legislation has sufficient regard to the rights and liberties of individuals, as it will recognise interim prohibition orders and prohibition orders made in Victoria. This may prevent a practitioner who is subject to a Victorian order from practising in Queensland.

However, recognising interstate orders is an important mechanism for protecting the public. Ensuring that a health practitioner who has an order made against them in Victoria is subject to the same restrictions if they seek to practice in Queensland, without the need for a separate investigation or regulatory process to be undertaken, ensures that a practitioner cannot evade the consequences of having an order made against them by simply moving interstate and commencing to practise.

Section 4 of the Health Ombudsman Act provides that the main principle for administering the Act is that the health and safety of the public are paramount. It is therefore essential that practitioners are held to high standards and that the public can be confident that their health and safety is protected.

It is considered that any potential impacts on individual practitioners are justified, given the need to ensure that the public is protected.

## **Consultation**

### ***Aged Care Ratios***

In August 2019, Hospital and Health Services and the Queensland Nurses and Midwives' Union (QNMU) were consulted on an exposure draft of the Health Transparency Bill 2019 and Amendment Regulation. QNMU was generally supportive of the Amendment Regulation. QNMU noted public RACFs should continue to use the Business Planning Framework and relevant Service Profiles to calculate the actual care hours required for residents which may be above the minimum prescribed in the draft Amendment Regulation. QNMU suggested that the explanatory notes should clarify that the resident care hours prescribed in the Amendment Regulation is a minimum only.

The aged care ratios amendments were assessed by Queensland Health in accordance with *The Queensland Government Guide to Better Regulation* as being excluded from further regulatory impact assessment as the proposed amendments are for the internal management of public sector services (exclusion category (c)) and will ensure minimum standards of care for residents in public RACFs. Therefore, consultation with Queensland Productivity Commission was not required.

### ***Access to The Viewer***

On 24 January 2020, a range of stakeholders were consulted on The Viewer amendment, such as QNMU, Health Consumers Queensland and Palliative Care Queensland. Stakeholders were generally supportive of the amendment.

The amendment to allow nurses, midwives and paramedics to access The Viewer was assessed by Office of Best Practice Regulation in accordance with *The Queensland Government Guide to Better Regulation* as being excluded from further regulatory impact analysis as it falls into category (k), regulatory proposals designed to reduce the burden of regulation or that clearly do not add to the burden, and it is reasonably clear there are no significant adverse impacts.

### ***Pharmacists vaccinating persons 10 years or older***

A range of stakeholders were consulted in the Health, Communities, Disability Services and Domestic and Family Violence Prevention Committee *Inquiry into the establishment of a pharmacy council and transfer of pharmacy ownership in Queensland*. Stakeholders provided written submissions and were witnesses at public hearings.

Three of the Committee's recommendations related to vaccination and pharmacist scope of practice. The Pharmacy Guild of Australia, Pharmaceutical Society of Australia and universities delivering undergraduate pharmacy programs were supportive of increasing the scope of practice for pharmacists related to vaccinations. The Australian Medical Association Queensland opposed increasing pharmacists' scope of practice related to vaccinations.

The Pharmacy Guild of Australia, Queensland Branch has publicly called for a lowering of the pharmacist administered influenza vaccination age to 10 years or more to align with other jurisdictions.

OBPR advised that amendment to enable pharmacists to vaccinate persons older than 10 years of age was assessed under *The Queensland Government Guide to Better Regulation* and is excluded from further regulatory impact analysis as it falls into category (k), regulatory proposals designed to reduce the burden of regulation or that clearly do not add to the burden, and it is reasonably clear there are no significant adverse impacts.

### ***Health Ombudsman Regulation amendments***

The Office of the Health Ombudsman was consulted on the changes to the Health Ombudsman Regulation and supports the changes.

The amendments to the Health Ombudsman Regulation were assessed by Office of Best Practice Regulation in accordance with *The Queensland Government Guide to Better Regulation* as being excluded from further regulatory impact assessment under category (k) on the basis that the proposals are designed to reduce the burden of regulation, or that clearly do not add to the burden and it is reasonably clear there are no significant adverse impacts.

# Notes on provisions

## Part 1 Preliminary

### Short Title

*Clause 1* provides the short title of the regulation is the *Health Legislation Amendment Regulation 2020*.

### Commencement

*Clause 2* provides that Part 3 commences on 1 March 2020.

## Part 2 Amendment of Health (Drugs and Poisons) Regulation 1996

### Regulation amended

*Clause 3* provides that part 2 amends the *Health (Drugs and Poisons) Regulation 1996*.

### Amendment of s 171 (Pharmacists)

*Clause 4* amends section 171(2) to refer to section 171(5) in addition to section 171(1). This authorises trainee pharmacists to administer a vaccine to a person who is 10 years old or more under the Pharmacist Vaccination Program Drug Therapy Protocol (DTP), under a pharmacist's direction and personal supervision.

*Clause 4* also amends section 171(5) to authorise pharmacists to administer a vaccine to a person who is aged 10 years or more under the DTP.

### Amendment of s 257 (Pharmacists)

*Clause 5* amends section 257(2) to authorise a pharmacist to administer adrenalin of a strength of 0.1% or less to a person who is 10 years or more under the DTP.

*Clause 5* also amends section 257(3) to insert a new subsection (d). This allows a trainee pharmacist to administer adrenalin of a strength of 0.1% or less to a person who is 10 years or more under a pharmacist's direction and personal supervision and under the DTP.

## Part 3 Amendment of Health Ombudsman Regulation 2014

### Regulation amended

*Clause 6* provides that part 3 amends the *Health Ombudsman Regulation 2014*.

### Amendment of s3 (Corresponding interstate interim orders— Act, s 77)

*Clause 7* amends section 3 to insert subsection (c), which prescribes an interim prohibition order under the *Health Complaints Act 2016* (Vic) as a corresponding interstate interim order. This ensures that a health practitioner who has an order made against them in Victoria is subject to the same restrictions if they seek to practice in Queensland, without the need for a separate investigation or regulatory process to be undertaken.

**Amendment of s 4 (Corresponding interstate orders—Act, s 114)**

Clause 8 amends the heading and body of section 4, by replacing the references to section 114 with references to section 90O. These are consequential amendments required as a result of amendments made to the *Health Ombudsman Act 2013* in the *Health Transparency Act 2019*.

Clause 8 also inserts subsection (c), which prescribes a prohibition order under the *Health Complaints Act 2016* (Vic) as a corresponding interstate order. This ensures that a health practitioner who has an order made against them in Victoria is subject to the same restrictions if they seek to practice in Queensland, without the need for a separate investigation or regulatory process to be undertaken.

**Part 4 Amendment of Hospital and Health Boards Regulation 2012****Regulation amended**

Clause 9 provides that part 4 amends the *Hospital and Health Boards Regulation 2012* (HHB Regulation).

**Insertion of new pt 6B**

Clause 10 inserts new part 6B (State aged care facilities) which includes new sections 30C, 30D and 30E.

New section 30C provides that for sections 138H and 138I of the *Hospital and Health Boards Act 2011* (HHB Act) the State aged care facilities in new schedule 2B are prescribed.

New section 30D prescribes the minimum percentage of nurses and registered nurses that must provide residential care to residents at a State aged care facility for section 138H of the HHB Act. The percentage applies to the total number of nurses and support workers, collectively referred to as *care staff*, that provide direct residential care during a 24-hour period.

State aged care facilities are required to ensure at least 50 per cent of the total care staff are nurses, that is registered nurses or enrolled nurses. At least 30 per cent of the total care staff must be registered nurses. The prescribed percentages of nurses and registered nurses have the effect that support workers can only form a maximum of 50 per cent of the total care staff.

New section 30E prescribes 3.65 hours as the minimum average daily resident care hours that State aged care facilities must provide to residents for section 138I of the HHB Act. Minimum average daily resident care hours refer to the minimum number of hours of direct residential care nurses and support workers must provide on average to residents daily.

**Replacement of s 34A (Prescribed health practitioner—Act, s 139)**

Clause 11 replaces section 34A of the HHB Regulation. It defines a *prescribed health practitioner* as a relevant health practitioner who holds a type of registration mentioned in schedule 2C, column 2 for a health profession mentioned in column 1 of the schedule. This means that new schedule 2C will prescribe the registered health practitioners and corresponding types of registration that are *prescribed health practitioners* for the purposes of section 139 of the HHB Act and can therefore access The Viewer.

Clause 11 also inserts definitions for *type of registration* and *health profession*.

## **Insertion of new schs 2B and 2C**

*Clause 12* inserts a new schedule 2B in the HHB Regulation. The schedule prescribes the State aged care facilities under section 30C of the HHB Regulation. The minimum nurse and registered nurse percentages under section 30D of the HHB Regulation and the minimum average daily resident care hours requirements under section 30E of the HHB Regulation apply to the facilities prescribed in schedule 2B.

Clause 12 also inserts schedule 2C in the HHB Regulation. The schedule prescribes the types of registration and health professions for the definition of *prescribed health practitioner* in section 34A of the HHB Regulation. A practitioner who holds a type of registration in column 2 in a health profession in column 1 opposite the type of registration will be able to access The Viewer.

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