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A Bill for an Act to amend the Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Act 2015 and the Child Wellbeing and Safety Act 2005 and for other purposes.

The Parliament of Victoria enacts:

Part 1—Preliminary

1 Purposes

The main purposes of this Act are—

(a) to amend the Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Act 2015—

(i) to amend the rounding method used when determining staffing requirements; and
Part 1—Preliminary

(ii) to amend certain nurse to patient and midwife to patient ratios on specified shifts in certain wards; and

(iii) to reclassify Warrnambool Base Hospital as a level 2 hospital; and

(b) to amend the **Child Wellbeing and Safety Act 2005** to require providers of certain maternal and child health services to employ or engage nurses for those services only if the nurses have prescribed maternal and child health nursing qualifications.

2 **Commencement**

(1) Subject to subsections (2), (3), (4) and (5), this Act comes into operation on a day or days to be proclaimed.

(2) Sections 8, 9, 10, 11 and 14 of this Act come into operation on the day after the day on which this Act receives the Royal Assent.

(3) Section 6 of this Act comes into operation on 1 March 2021.

(4) Sections 4, 5, 7, 12, 13 and 15 of this Act come into operation on 1 July 2022.

(5) If a provision of this Act (other than sections 4 to 15) does not come into operation before the day that is the anniversary of the day on which this Act receives the Royal Assent, it comes into operation on that day.
Part 2—Amendment of Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Act 2015

3 Principal Act—Part 2

In this Part, the Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Act 2015 is called the Principal Act.

4 Definitions

(1) For paragraph (b) of the definition of general medical or surgical ward in section 3 of the Principal Act substitute—

"(b) a short stay observation area;".

(2) Insert the following definition in section 3 of the Principal Act—

"short stay observation area means 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;".

5 Application of ratios in small hospitals

(1) In section 10(1)(b) of the Principal Act, for "(who is not supernumerary)" substitute

"(who, unless subsection (3) applies, is not supernumerary)".

(2) For section 10(2) of the Principal Act substitute—

"(2) Despite anything to the contrary in a ratio applying to a level 4 hospital with only 2 wards, the operator of a hospital with only 2 wards must staff the hospital with one After Hours Coordinator or equivalent
Part 2—Amendment of Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Act 2015

position (who, unless subsection (3) applies, is not supernumerary) during all off-duty periods of the Director of Nursing or Director of Midwifery.

(3) Despite anything to the contrary in a ratio applying to a level 4 hospital with one or 2 wards, the operator of a hospital with one or 2 wards must count the After Hours Coordinator in addition to any ratio that applies if the hospital has either or both of the following—

(a) an emergency department that has had at least 2500 annual presentations in the 12 months immediately preceding the day on which the ratio is being applied;

(b) a nominated birthing suite within the meaning of section 31.”.

6 Rounding method

(1) After section 12(1)(c)(i)(C) of the Principal Act insert—

"(D) an acute stroke ward;

(E) a haematology ward;

(F) an oncology ward;".

(2) After section 12(1)(c)(i) of the Principal Act insert—

"(ia) on the afternoon shift in all hospitals—

(A) an acute stroke ward;

(B) a haematology ward;

(C) an oncology ward;".
(3) After section 12(1)(c)(v)(E) of the Principal Act insert—

"(F) an acute stroke ward; 
(G) a haematology ward; 
(H) an oncology ward;".

(4) After section 12(1)(d) of the Principal Act insert—

"(da) on and from 1 July 2022—

(i) on the afternoon shift in an aged high care residential ward in all hospitals; 
(ii) on the night shift in a rehabilitation bed in all hospitals;".

(5) In section 12(1)(e)(v) of the Principal Act, for "suite." substitute "suite;".

(6) After section 12(1)(e) of the Principal Act insert—

"(f) on and from 1 July 2023, on the morning shift in an aged high care residential ward in all hospitals.".

7 Ratio for mixed wards

After section 12A(6) of the Principal Act insert—

"(6A) Subsections (6) and (7)(b) do not apply, in relation to night shifts, to a short stay observation area if—

(a) the short stay observation area is co-located with an emergency department in a hospital specified in Part 1 of Schedule 3; and 
(b) the total number of occupied beds in the short stay observation area and emergency department is 30 or more.".
Part 2—Amendment of Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Act 2015

8 Level 1 hospitals

For section 15(b) of the Principal Act substitute—

"(b) on the night shift—

(i) one nurse for every 8 patients; and

(ii) on and from 1 July 2021, one nurse in charge.".

9 Level 2 hospitals

For section 16(c) of the Principal Act substitute—

"(c) on the night shift—

(i) one nurse for every 8 patients; and

(ii) on and from 1 July 2022, one nurse in charge.".

10 Level 3 hospitals

For section 17(c) of the Principal Act substitute—

"(c) on the night shift—

(i) one nurse for every 10 patients; and

(ii) on and from 1 July 2023, one nurse in charge.".

11 Rehabilitation and geriatric evaluation management

For section 24(2)(c) of the Principal Act substitute—

"(c) on the night shift—

(i) one nurse for every 10 patients; and

(ii) on and from 1 July 2023, one nurse in charge.".
12 Special care nurseries

(1) In section 27(1)(b) of the Principal Act—
   (a) in subparagraph (ii)(B), after "midwife;"
       insert "and";
   (b) after subparagraph (ii)(B) insert—
       
       "(C) a nurse in charge or a midwife in charge;".

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

   "(ii) on the night shift—
   (A) 3 persons, each being either a nurse or a midwife; and
   (B) a nurse in charge or a midwife in charge;".

(3) In section 27(1)(d) of the Principal Act—

   (a) in subparagraph (ii)(B), for "midwife."
       substitute "midwife; and";
   (b) after subparagraph (ii)(B) insert—
       
       "(C) a nurse in charge or a midwife in charge.".

13 Birthing suites

For section 31(1)(b) of the Principal Act substitute—

   "(b) in the case of a hospital with 6 or more nominated birthing suites—
   (i) on the morning shift, a midwife in charge is provided; and
   (ii) on and from 1 July 2023, a midwife in charge is provided on the afternoon shift; and"
Part 2—Amendment of Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Act 2015

(iii) a midwife in charge is provided on the night shift.”.

14 Postnatal wards

For section 31A(1)(b) of the Principal Act substitute—

“(b) on the night shift—

(i) one midwife or nurse for every 6 patients; and

(ii) on and from 1 July 2022, one midwife in charge or nurse in charge.”.

15 Level 1, 2 and 3 hospitals

(1) In Part 2 of Schedule 1 to the Principal Act, after "The Royal Women’s Hospital" insert "Warrnambool Base Hospital".

(2) In Part 3 of Schedule 1 to the Principal Act omit "Warrnambool Base Hospital".
Part 3—Amendment of Child Wellbeing and Safety Act 2005

16 New Part 7B inserted

After Part 7A of the Child Wellbeing and Safety Act 2005 insert—

"Part 7B—Qualifications required for maternal and child health nurses

46ZAA Maternal and Child Health Centres

The operator of a Maternal and Child Health Centre must not employ or engage a nurse to provide a prescribed maternal and child health nursing service unless the nurse has—

(a) a prescribed specialist maternal and child health nursing qualification; or

(b) a qualification that is substantially equivalent, as determined by the regulations, to a prescribed specialist maternal and child health nursing qualification.

46ZAB State-wide telephone services

A person who operates a state-wide telephone advice service that provides maternal and child health advice must not employ or engage a nurse to provide a prescribed maternal and child health nursing service unless the nurse has—

(a) a prescribed specialist maternal and child health nursing qualification; or

(b) a qualification that is substantially equivalent, as determined by the regulations, to be a prescribed specialist..."
maternal and child health nursing qualification.

46ZAC Part not to affect employment contracts or workplace instruments

Nothing in this Part 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.”.

17 New section 46ZD inserted

After section 46ZC of the Child Wellbeing and Safety Act 2005 insert—

"46ZD Maternal and child health nurse regulation making power

(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 Part 7B.

(2) Without limiting subsection (1), the Governor in Council may make regulations for or with respect to—

(a) prescribing a service to be a maternal and child health nursing service; and
(b) prescribing a qualification to be a specialist maternal and child health nursing qualification; and
(c) providing for processes or requirements to determine whether a qualification is substantially equivalent to a prescribed specialist maternal and child health nursing qualification.
(3) The regulations—

(a) may be of general or limited application; and

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

(c) may confer a discretionary authority or impose a duty on a specified person or body or a specified class of persons or bodies; and

(d) may leave any matter or thing to be from time to time determined, applied, dispensed with or regulated by a specified person.”.
Part 4—Repeal of this Act

18 Repeal of this Act

This Act is repealed on 1 July 2023.

Note

The repeal of this Act does not affect the continuing operation of the amendments made by it (see section 15(1) of the Interpretation of Legislation Act 1984).
Endnotes

1 General information