Guide to implementation of amendments to the *Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Act 2015*

Inclusive of:

- Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Amendment Act 2019
- Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Amendment Act 2020

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Minister's foreword

Victoria's dedicated nurses and midwives are at the centre of our health system and the Andrews Labor Government is committed to supporting and protecting this hard-working workforce. Establishment of the *Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Act 2015* was a significant achievement to maintain the safety of both patients and staff.

The first phase of amendments to the Safe Patient Care Act, introduced in March 2019, represented the first time that nurse and midwife to patient ratios had been meaningfully reviewed and updated since their introduction in 2000. Further amendments to the Safe Patient Care Act successfully passed by the Victorian Parliament in 2020, will enshrine further improvements to nurse and midwife to patient ratios, ensuring nurses and midwives can devote more time to each patient – delivering better, safer care. Together, these changes will see over 1100 new employment opportunities for nurses and midwives in Victoria's public hospital sector.

Improvements to existing ratios, the creation of new ratios in a range of clinical settings and the introduction of other staffing enhancements will all contribute to reducing clinical risk, improving safety and ensuring patient and staff wellbeing. These changes will improve workplace practices and establish better working environments for our nurses and midwives to deliver compassionate and personalised patient care.

As these ratio amendments will be phased in over the coming years, this guide will serve as a resource for all those involved in their effective operationalisation.

The COVID19 pandemic of this year has demonstrated the outstanding contribution, care and compassion of nurses and midwives to uphold the health and safety of the Victorian community. The entire Victorian community owes our nurses and midwives a debt of gratitude. All Victorians are proud and grateful for the unwavering passion and commitment of our nurses and midwives. These amendments acknowledge the important roles of nurses and midwives within the health system and I look forward to overseeing their ongoing implementation for the future benefit of hospital staff and the broader community in partnership with our nurses, midwives and hospital system.

Martin Foley MP
Minister for Health
Minister for Ambulance Services

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Enterprise Agreement	*Nurses and Midwives (Victorian Public Sector) (Single Interest Employers) Enterprise Agreement 2012–2016*
Principal Act	*Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Act 2015*
Regulations	Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Regulations 2015

Purpose

This implementation guide is a resource to assist operators of certain publicly funded health facilities to understand and implement legislated amendments to the *Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Act 2015* (the Principal Act).

The first phase of amendments to the Principal Act were outlined in the *Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Amendment Act 2019* (Amendment Act 2019). Following a five-stage implementation approach, the first of these changes came into effect on 1 March 2019 and the final stage will commence from 1 March 2023.

The second phase of amendments to the Principal Act are contained in the *Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Amendment Act 2020* (Amendment Act 2020). These changes also have a staged implementation with the first of these changes coming into effect on 1 March 2021 and the final stage to commence from 1 July 2023.

This guide provides direction regarding the implementation schedules of both Amendment Bill 2019 and Amendment Bill 2020.

Operators of hospitals must understand their responsibilities and obligations under the Principal Act, inclusive of any amendments, and are expected to have processes and procedures in place to ensure correct compliance and application of the amendments once they come into effect.

It is equally important that all nurses and midwives working in the public sector understand the legislation and have the necessary knowledge of how ratios are applied in their workplace.

This implementation guide is for information only and does not replace or intend to interpret the *Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Act 2015, Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Amendment Act 2019, Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Amendment Act 2020* or the Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Regulations 2015. It is recommended that hospital operators obtain legal advice for interpretation of specific provisions, as required.

Background

Nurse to patient and midwife to patient ratios have maintained the safety of the Victorian public since they were first introduced in 2000 under the *Nurses (Victorian Public Health Sector) Multi-business Agreement 2000–2004*.

In 2015, the *Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Act 2015* was established to enshrine into legislation nurse to patient and midwife to patient ratios that were previously contained in the *Nurses and Midwives (Victorian Public Sector) (Single Interest Employers) Enterprise Agreement 2012–2016.* Through this action, Victoria became the first State or Territory in Australia to legislate minimum nurse and midwife to patient ratios in public hospitals.

The purposes of the Principal 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.

The Principal Act, through prescribing mandatory minimum requirements for nursing and midwifery staffing levels in specified clinical settings, provides an additional level of health service compliance beyond clinical guidelines.

Changes to the Principal Act have been informed by the work of the Nurse/Midwife to Patient Ratio Improvements Taskforce and through further targeted consultation with stakeholders. The objectives of these changes are to:

- commit to the overarching principle of safe and quality healthcare for all Victorians
- reflect the increasing patient complexity, changing models of care and the growing demand for health services
- create safe and satisfying workplace environments that appropriately manage increasing intellectual, emotional, physical and psychological demands on nurses and midwives.

A copy of the legislation is available on the Victorian Legislation website <www.legislation.vic.gov.au>.

Scope of the Principal Act

The Principal Act applies to services covered by the *Nurses and Midwives (Victorian Public Health Sector) (Single Interest Employers) Enterprise Agreement 2016–2020*.

The amended legislation only affects certain wards within Victoria's public hospitals. Services not impacted by the legislation include:

- public day admission and procedural wards
- public mental health services
- public low care residential aged care services
- private and not-for-profit hospitals
- private and not-for-profit residential aged care services
- private and not-for-profit day procedural centres.

Applying the ratios

Nurse to patient and midwife to patient ratios must be applied to every ward in each hospital to which the Principal Act is specified to apply. Furthermore, ratios must be applied based on the actual number of patients or occupied beds (as applicable) in each ward.

Where the actual or expected number of patients falls below the number for which a ward is staffed in accordance with a ratio, the number of nurses or midwives may be adjusted before the start of a shift.

Extra beds above those that would normally be staffed under a ratio can only be occupied by a patient if the required numbers of nurses or midwives are available to meet the ratio provisions within the Principal Act.

Importantly, ratios are a minimum requirement and the Principal Act is not intended to prevent the operator of a hospital from staffing a ward with additional staff beyond the number required by the ratio if there is reason to do so.

Flexible application of ratios

The Principal Act contains provisions for the flexible application of ratios.

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

The ratios within the Principal Act provide the minimum numbers of nurses or midwives for a ward based on the number of patients who occupy or are expected to occupy beds within that ward. The Principal Act does not require each nurse or midwife within that ward to be allocated the same number of patients.

For example, in a ward with 28 patients and a 1-to-4 ratio, a minimum of 7 nurses plus an in-charge would be required under ratios. If 9 patients require a higher level of care, and 19 patients require a lower level of care, then the nurse in-charge may allocate 3 nurses to care for the 9 patients requiring the higher level of care (i.e. 1-to-3 ratio), 1 nurse to care for 4 patients (i.e. 1-to-4 ratio) and the other 3 nurses care for 15 patients (i.e. 1 to 5 ratio).

This may legitimately result in some nurses and midwives either being assigned fewer or more patients than prescribed in the relevant ratio.

Calendar of amendments to the Principal Act

Note:

- Blue shading refers to Phase 1 stages.
- Grey shading refers to Phase 2 stages.

Amendment Act 2019	**Stage 1** **1 March 2019**	**Stage 2** **1 March 2020**	**Stage 3** **1 March 2021**	**Stage 4** **1 March 2022**	**Stage 5** **1 March 2023**
Amendment Act 2020			**Stage 1** **1 July 2021**	**Stage 2** **1 July 2022**	**Stage 3** **1 July 2023**
Application of ratios in small hospitals Level 4 Hospital After Hours Coordinator **Section 10**				After Hours Coordinator must be supernumerary in level 4 hospitals with one or two wards and a: – nominated birthing suite; and/or – an emergency department with greater than 2500 presentations per annum	
Rounding method **Section 12**	General medical or surgical, coronary care, high dependency, operating theatre, post-anaesthetic recovery Level 1 and level 2 hospitals All shifts				
Rounding method **Section 12**	General medical or surgical/acute, coronary care, high dependency, operating theatre, post-anaesthetic recovery	General medical or surgical/acute, coronary care, high dependency, operating theatre, post-anaesthetic recovery	General medical or surgical/acute, coronary care, high dependency, operating theatre, post-anaesthetic recovery		

Amendment Act 2019	Stage 1 1 March 2019	Stage 2 1 March 2020	Stage 3 1 March 2021	Stage 4 1 March 2022	Stage 5 1 March 2023
Amendment Act 2020			Stage 1 1 July 2021	Stage 2 1 July 2022	Stage 3 1 July 2023
	Level 3 and level 4 hospitals Night shift	Level 3 and level 4 hospitals Morning shift	Level 3 and level 4 hospitals Afternoon shift		
Rounding method **Section 12** *Amendment Act 2020 - commencing 1 March 2021			*Acute stroke, oncology and haematology wards All hospital levels All shifts		
Rounding method **Section 12**	Aged high care residential All hospital levels Night shift			Aged high care residential All hospital levels Afternoon shift	Aged high care residential All hospital levels Morning shift
Rounding method **Section 12**		Palliative care, geriatric evaluation management All hospital levels Night shift	Palliative care, geriatric evaluation management, rehabilitation All hospital levels Morning shift	Palliative care, geriatric evaluation management, rehabilitation All hospital levels Afternoon shift	
Rounding method **Section 12**				Rehabilitation All hospital levels Night shift	
Rounding method **Section 12**	Emergency department All hospitals with emergency departments specified in Part 1 of Schedule 3 All shifts				
Rounding method **Section 12**	Emergency department All hospitals with emergency departments	Emergency department All hospitals with emergency departments	Emergency department All hospitals with emergency departments		

Amendment Act 2019	Stage 1 1 March 2019	Stage 2 1 March 2020	Stage 3 1 March 2021	Stage 4 1 March 2022	Stage 5 1 March 2023
Amendment Act 2020			**Stage 1 1 July 2021**	**Stage 2 1 July 2022**	**Stage 3 1 July 2023**
	specified in Part 2 or 3 of Schedule 3 An emergency department to which section 20(5) applies Night shift	specified in Part 2 or 3 of Schedule 3 An emergency department to which section 20(5) applies Morning shift	specified in Part 2 or 3 of Schedule 3 An emergency department to which section 20(5) applies Afternoon shift		
Rounding method **Section 12**			Maternity services (special care nurseries, neonatal intensive care units, antenatal wards, postnatal wards, birthing suites) All hospital levels Night shift	Maternity services (special care nurseries, neonatal intensive care units, antenatal wards, postnatal wards, birthing suites) All hospital levels Morning shift	Maternity services (special care nurseries, neonatal intensive care units, antenatal wards, postnatal wards, birthing suites) All hospital levels Afternoon shift
Ratio for mixed wards **Section 12A**	Commence determination, nomination, publication and implementation of mixed ratio calculation				
Ratio for mixed wards: **In charge in co-located Short Stay Observation (SSO) areas** **Section 12A(6) and 12A(7)(b)**				SSO areas that are co-located with an emergency department listed in Part 1 of Schedule 3, and where the combined SSO/emergency department has 30 or more beds. Additional nurse in charge on night shift.	
Level 1 hospitals **General medical or surgical ward** **Section 15**			Nurse in charge on night shift		

Amendment Act 2019	Stage 1 1 March 2019	Stage 2 1 March 2020	Stage 3 1 March 2021	Stage 4 1 March 2022	Stage 5 1 March 2023
Amendment Act 2020			**Stage 1** **1 July 2021**	**Stage 2** **1 July 2022**	**Stage 3** **1 July 2023**
Level 2 hospitals General medical or surgical ward **Section 16**				Nurse in charge on night shift	
Level 3 hospitals General medical or surgical ward **Section 17**					Nurse in charge on night shift
Emergency departments **Section 20**	Repeal section 20(2) Night formula		New ratio for resuscitation beds for afternoon and night shift		
Acute stroke wards **New section 21A**		New ratios for all shifts			
Oncology wards **New section 21B**		New ratios for all shifts			
Haematology wards **New section 21C**		New ratios for all shifts			
Palliative care inpatient units **Section 23**		New ratios for afternoon and night shift Nurse in charge on night shift			

Amendment Act 2019	Stage 1 1 March 2019	Stage 2 1 March 2020	Stage 3 1 March 2021	Stage 4 1 March 2022	Stage 5 1 March 2023
Amendment Act 2020			**Stage 1** **1 July 2021**	**Stage 2** **1 July 2022**	**Stage 3** **1 July 2023**
Geriatric Evaluation Management wards **Section 24(2)**					Nurse in charge on night shift
Special care nurseries **Section 27**	Registered midwives may be included in ratios to work in special care nurseries (in specified circumstances)	8 or more occupied cots Additional nurse/midwife in charge on a morning and afternoon shift		8 or more occupied cots Additional nurse/midwife in charge on a night shift	
Neonatal intensive care units **Section 28**	Removal of reference to specific hospitals				
Antenatal wards **Section 30**	Removal of reference to postnatal wards in section 30. Establish standalone provisions for antenatal and postnatal wards				
Birthing suites **Section 31**	Commence determination, nomination and publication of occupied birthing suites	6 or more nominated birthing suites Midwife in charge on morning shift		6 or more nominated birthing suites Midwife in charge on night shift	6 or more nominated birthing suites Midwife in charge on afternoon shift
Postnatal wards **New section 31A**	Registered nurses may be included in the ratios to work in postnatal wards (in specified circumstances).			Nurse/midwife in charge on a night shift	
Variations from ratios **Repeal sections 33, 34 and 35**	Sections 33, 34 and 35 repealed. Existing variations from ratios are saved				

Amendment Act 2019	Stage 1 1 March 2019	Stage 2 1 March 2020	Stage 3 1 March 2021	Stage 4 1 March 2022	Stage 5 1 March 2023
Amendment Act 2020			**Stage 1** **1 July 2021**	**Stage 2** **1 July 2022**	**Stage 3** **1 July 2023**
Local dispute resolution **Section 41**	The local dispute resolution process does not apply to alleged breaches of staffing requirements for a period of 180 days following commencement of phase 1				
Update hospital levels in Part 1 of Schedule 1	Casey Hospital, Sunshine Hospital and Monash Children included as level 1 hospitals				
Update hospital levels in Part 2 of Schedule 1				Warrnambool Hospital included as level 2 hospital	
Update list of hospitals in Schedule 2	Sunshine Hospital removed from list of hospitals not restricted in use of enrolled nurses				

Reporting requirements

Nominate and publish details of mixed wards

Section 12A(1) of the Principal Act specifies that the operator of a hospital must nominate and publish notice of wards to which more than one ratio requirement would apply – a 'mixed ward'.

A hospital must nominate a ward as a mixed ward if the ward:

> is specifically configured to provide, in the course of its ordinary operation, a mixture of clinical services; and,
>
> has more than one portion of the ward, and accordingly, more than one ratio would apply when determining staff numbers for the entire ward.

A hospital must publish details of its nominated mixed wards for the following 6-month period on the hospital's Internet site including:

> the name of the mixed ward;
>
> the total number of occupied beds in the mixed ward;
>
> the different ratios that would apply to each portion; and,
>
> the expected number of occupied beds in each portion of the ward during the following 6-month period.

New section 12A(2) specifies that in making a determination of the expected number of occupied beds for each portion of the ward, the operator of a hospital must take into account:

> the portions in the ward and the number of occupied beds in each portion during the preceding 12 months; and
>
> any factors during the following 6-month period (or the remainder of the 6-month period) which are likely:
>
> - to increase or decrease the number of occupied beds; or
> - to change the portions in the ward.

Timelines for reporting

Period	Publish on hospital's Internet site by
1 March – 31 August	End of February
1 September – the final day of February	End of August

Failure to report

Section 12A(7) of the Principal Acts sets out the default position if an operator of a hospital fails to nominate a ward as a mixed ward in accordance with 12A(1). In this case, the **highest** nurse to patient or midwife to patient ratio of the ratios 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.

Changes to configuration of a mixed ward within the specified 6-month period

Section 12A(8) specifies the process required where an operator of a hospital takes action to change the configuration of the nominated mixed ward during the specified 6-month period. If this action results in

significantly different portions or significantly different numbers of occupied beds in its portions, the operator of a hospital is required to make a new nomination for the remainder of the relevant 6-month period.

A new ratio for the nominated mixed ward is to be determined in accordance with section 12A(3) of the Principal Act using the updated data published in accordance with section 12A(8). The nominated mixed ward must be staffed for the remainder of the 6-month period in accordance with a new ratio.

Nominate and publish details of birthing suites

Section 31(6) of the Principal Act specifies that an operator of a hospital must determine and publish notice of their occupied birthing suites.

Occupied is defined as 'includes available to be occupied'.

The number of occupied birthing suites for the following 6-month period must be published on the hospital's Internet site.

In determining the number of occupied birthing suites, the operator of a hospital must consider the number of birthing suites used for birthing or midwifery assessments during the preceding 12 months and any factors which are likely to vary the number of birthing suites to be used during the following 6-month period.

If the operator 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 is applicable only on Saturdays and Sundays for the relevant 6-month period.

Timelines for reporting

Period	Publish on hospital's Internet site by
1 March – 31 August	End of February
1 September – the final day of February	End of August

Recommended actions: Reporting requirements

Operators of hospitals should ensure appropriate documentation is maintained and available to demonstrate compliance. This includes information regarding:

- number of occupied birthing suites (including evidence of activity in birthing suites from the preceding 12 months and factors likely to affect future activity). Note: this must be provided as soon as practical after receiving a request from the relevant union.
- details of nominated mixed wards (including evidence of activity in each portion of the ward from the preceding 12 months and factors likely to affect future activity).

General hospital-wide changes

Application of ratios in small hospitals

Section 10 of the Principal Act has been amended such that, in addition to applicable ratios, level 4 hospitals with one or two wards are required to staff the hospital with a supernumerary After Hours Coordinator or equivalent position if the hospital has either or both of the following:

- 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;
- a nominated birthing suite within the meaning of section 31.

Examples

Example 1:

On a Sunday morning, during the off-duty period of the Director of Nursing, a level 4 hospital with 2 acute wards and a nominated birthing suite, must staff the hospital with one After Hours Coordinator or equivalent position. In this case, the After Hours Coordinator must be supernumerary and cannot be counted as contributing to or fulfilling any other ratio, as the hospital has a nominated birthing suite.

This requirement is in addition to the minimum staffing requirement specified at section 18 'Level 4 hospitals' of the Principal Act to staff one nurse for every 6 patients and one nurse in charge in respect of each of the 2 acute wards.

Example 2:

On a Sunday afternoon, during the off-duty period of the Director of Nursing, a level 4 hospital with 1 acute ward and an emergency department that has had 2000 annual presentations in the 12 months immediately preceding that Sunday, must staff the hospital with one After Hours Coordinator or equivalent position. In this case, the After Hours Coordinator is not required to be supernumerary (as the emergency department has had less than 2500 presentations in the preceding 12 months) and can be counted as contributing to or fulfilling other ratios.

The requirement to staff an After Hours Coordinator at the hospital is a requirement additional to the minimum staffing requirement specified at section 18 'Level 4 hospitals' of the Principal Act to staff one nurse for every 7 patients and one nurse in charge in respect of the acute ward. However, in this case, the After Hours Coordinator can also be counted towards meeting the ratio and can be counted as a nurse in charge if determined as safe staffing by the hospital.

Rounding method

Section 12 of the Principal Act has been amended to set out a new rounding method.

When the number of patients in a ward is not evenly divisible by the number of nurses or midwives 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) to comply with the ratio.

Implementation

The rounding method has been updated through both the Amendment Act 2019 and Amendment Act 2020 and is now applied across all clinical settings specified in the Principal Act. The changes will be phased into operation, progressively applying to specified wards on 1 March 2019, 1 March 2020, 1

March 2021, 1 March 2022, 1 July 2022, 1 March 2023 and 1 July 2023. The schedule of implementation varies according to hospital level in Schedule 1 to the Principal Act, emergency department specification in Schedule 3 to the Principal Act, relevant shifts and clinical specialty area (for example, palliative care inpatient units, maternity services). See 'Calendar of amendments to the Principal Act'.

Examples

Example 1:

On **16 June 2021**, in a 32-bed general medical or surgical ward in a level 3 hospital, the ratio requirements on an afternoon shift are 1 nurse for every 6 patients and 1 nurse in charge.

The number of 32 occupied beds is not evenly divisible into a whole number when divided by 6 in applying the relevant ratio, as 32 divided by 6 equals 5, with 2 beds remaining.

The new rounding method for a level 3 hospital is to apply from 1 March 2021 in respect of afternoon shifts for general medical or surgical wards.

As 16 June 2021 is a date after 1 March 2021, the operator of the hospital must 'round up' the number of staff for the ward and staff the ward with an additional nurse to comply with the ratio.

Accordingly, the total number nurses required to be staffed on the ward is 6 nurses plus 1 in charge.

Example 2:

On **16 June 2020**, in a 32-bed general medical or surgical ward in a level 3 hospital, the ratio requirements on an afternoon shift are 1 nurse for every 6 patients and 1 nurse in charge.

The number of 32 occupied beds is not evenly divisible into a whole number when divided by 6 in applying the relevant ratio, as 32 divided by 6 equals 5, with 2 beds remaining.

The new rounding method for a level 3 hospital is to apply from 1 March 2021 in respect of afternoon shifts for general medical or surgical wards.

As 16 June 2020 is a date before 1 March 2021, in accordance with new section 12(2) of the Principal Act, the new rounding method does not apply and the operator of the hospital may 'round down' the number of staff for the ward and not staff the ward with an additional nurse in order to comply with the ratio, where safe patient care would not be compromised and where the number of beds on the ward requires 50 per cent or less of one additional nurse in order to comply with the ratio.

Accordingly, the operator in this case is not required to staff an additional nurse where safe patient care will not be compromised subject to any pre-existing higher staffing arrangements.

Recommended action: Rounding method

Ensure staff are aware of phased implementation of the new rounding method and dates on which specific clinical areas and shifts are obliged to comply with the legislation.

Ratio for mixed wards

Section 12A of the Principal Act sets out a methodology to calculate a 'unique ratio' for a nominated mixed ward 'as-a-whole' in place of the ratios that would otherwise apply to portions of the ward. The 'unique' ratio is applied to the nominated mixed ward for the 6-month period that aligns with the reporting requirements.

Section 12A(3)–(5) of the Principal Act provide direction and examples for calculating a mixed ward 'unique ratio'. The application of the mixed wards methodology to the separate portions of the ward will vary depending upon the applicability and eligibility of section 12 'Rounding method' of the Principal Act.

Exemptions: Special care nurseries and birthing suites

Section 12A(9) of the Principal Act specifies that a ward that contains a special care nursery with 8 or more occupied cots or a ward with 6 or more birthing suites is not to be nominated as a mixed ward in accordance with new section 12A.

Nurse in charge or midwife in charge

Section 12A(6) of the Principal Act specifies that 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.

Exemption: Nurse in charge in short stay observation area co-located with an emergency department

> **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 required emergency care.

Section 12(A)(6A) of the Principal Act specifies that provisions under section 12A(6) and (7)(b) do not apply on night shift to a short stay observation area where the short stay observation area is co-located with an emergency department in a hospital specified in Part 1 of Schedule 3, and there are 30 or more occupied beds across the two areas.

This has the effect that an additional nurse in charge is required for the short stay observation area on night shift in specified circumstances, further to the nurse in charge in the emergency department.

Implementation: 1 July 2022

Calculating the unique ratio applicable to a nominated mixed ward

Step 1 (section 12A(3)(a) of the Principal Act)

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.

If the number of occupied beds in a portion is not divisible into a whole number following the application of the relevant ratio, consider application and eligibility of section 12 of the Principal Act (phasing of the rounding method). This includes:

- any portion that is subject to the new rounding up methodology **should not** be rounded up at this step
- if one or more **(but not all)** portions are **not** subject to the new rounding up methodology, consider rounding down these portions at this step

if all portions are **not** subject to the new rounding up methodology **do not** round down these portions at this step.

Step 2 (section 12A(3)(b) of the Principal Act)

Add the number of staff for each portion of the ward (as calculated in step 1) to ascertain the total number of staff required for the nominated mixed ward.

Step 3 (section 12A(3)(c) of the Principal Act)

Determine the 'unique ratio' by dividing the total number of occupied beds in the nominated mixed ward by the total number of staff required for the nominated mixed ward that has been calculated at step 2.

This 'unique ratio' will be applied to the nominated mixed ward for the relevant 6-month period.

Applying the unique ratio to a nominated mixed ward

Step 4 (section 12A(5) of the Principal Act)

This step is applied throughout the 6-month period to calculate the staff numbers required where there are variations in numbers of occupied beds within the nominated mixed ward.

If the number of occupied beds is not divisible into a whole number when applying the 'unique ratio' (calculated under step 3) the ward must be staffed with an additional nurse or midwife (that is, round up).

At this step apply the above **unless**:

section 12(2) (that is, eligible to be rounded down) would apply to each portion of the nominated mixed ward; and

safe patient care would not be compromised if the nominated mixed ward were not staffed with the additional nurse or midwife; and

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 to comply with that ratio.

If all these items apply, then the hospital operator may consider not staffing with an additional nurse or midwife (that is, round down).

Example

On 16 June 2020, on the morning shift in a level 3 hospital, a 30-bed nominated mixed ward contains 2 portions.

Step 1

Portion A is a portion of 17 beds operated as general medical or surgical beds. Under section 17(a) of the Principal Act, the relevant ratio requirement for Portion A on the morning shift is 1 nurse for every 5 patients, plus 1 nurse in charge. The number of staff (excluding any nurse in charge) required for the Portion A is determined by dividing 17 beds by 5, returning a figure of 3.40 nurses required.

Portion B is a portion of 13 beds operated as beds for palliative care patients. Under section 23(a) of the Principal Act, the relevant ratio requirement for Portion B on the morning shift is 1 nurse for every 4 patients, plus 1 nurse in charge. The number of staff (excluding any nurse in charge) required for Portion B is determined by dividing 13 beds by 4, returning a figure of 3.25 nurses required.

Consider rounding method

Consider the rounding method in section 12 of the Principal Act, as it applies to Portion A. The Principal Act states that the new rounding method for **level 3 medical/surgical wards on the morning shift** comes into effect on and from 1 March 2020. As this example occurs after 1 March 2020, the new rounding method applies, and (for now) the requirement stays at 3.40 nurses.

Consider the rounding method in section 12 of the Principal Act, as it applies to Portion B. The Principal Act states that the new rounding method for **Palliative Care on the morning shift** does not come into effect until 1 March 2021, so the rounding down method can be applied, for example, 3.25 can be rounded down to 3 nurses.

Rules to remember at this step

Any portion that is subject to the new rounding up methodology **should not be** rounded up at this step (that is, Portion A in this example). Rounding up occurs at step 4.

If one or more (but not all) portions are not subject to the new rounding up methodology, consider rounding down those portions at this step (as is the case for palliative care in this example).

if **all** portions are not subject to the new rounding up methodology, **do not** round down these portions at this step (rounding down is to be considered at step 4).

Step 2

Add the number for each portion of the ward to ascertain the total number of staff required for the nominated mixed ward. Where the staff figure for a Portion A of a nominated mixed ward has been calculated to be 3.40 nurses and the staff figure for a Portion B of the ward has been calculated to be 3 nurses (as determined in step 1), the total number of nurses required for the entire nominated mixed ward is 6.40 nurses.

Step 3

The third step is to divide the total number of occupied beds in the nominated mixed ward (in this example 30 beds) by the total number of staff required for the nominated mixed ward (in this example 6.40 nurses) so by dividing 30 by 6.40, we arrive at a 'unique ratio' of 1 nurse for every 4.69 patients.

The unique ratio of 1 nurse for every 4.69 patients applies to all occupied beds within the nominated mixed ward.

Step 4

Returning to the example, if on 16 June 2020, there are only 20 occupied beds (noting that the unique ratio applies to the 30-bed nominated mixed ward) a further step is required to apply the unique ratio to the 20 beds.

Dividing the unique ratio (4.69) into the 20 occupied beds returns a figure of 4.26 nurses required for the 20 occupied beds.

As the unique ratio of 4.69 does not divide equally into 20, and at least one portion has the new rounding method applicable to it, the figure of 4.26 nurses must be rounded up to 5 nurses.

Rules to remember at this step

If any, or all, portions are subject to the new rounding up methodology, rounding up must occur at this step.

If **all** portions are not subject to the new rounding up methodology, then staffing can be rounded down at this step.

New section 12A(6) of the Principal Act provides that a nominated mixed ward requires only 1 nurse in charge or midwife in charge (as the case requires). Hence, in this example, the minimum staffing for the 20 occupied beds in the nominated mixed ward would be 5, plus a nurse in charge.

As, in this example the hospital has nominated and published the ward as a mixed ward, new section 12A(7) which prescribes a default ratio, does not apply.

Implementation: 1 March 2019

Reporting requirements: Nominate and publish details of mixed wards

See 'Reporting requirements' for further details.

Implementation: 1 March 2019

Recommended actions: Ratio for mixed wards

Ensure all relevant staff have access to the unique ratio for each nominated mixed ward for each 6-month period.

Use step 4 to calculate the predetermined staff numbers for all variations of occupied bed numbers and provide to all relevant staff to assist with roster and staffing management.

Update hospital levels in Part 1 of Schedule 1

Casey Hospital, Monash Children's Hospital and Sunshine Hospital are now classified as level 1 hospitals (Part 1 of Schedule 1 to the Principal Act) and all relevant sections in the Principal Act and Enterprise Agreement that apply to level 1 hospitals are now applicable.

Implementation: 1 March 2019

Update hospital levels in Part 2 of Schedule 1

Warrnambool Base Hospital to be classified as a level 2 hospital (Part 2 of Schedule 1 to the Principal Act) and all relevant sections in the Principal Act and Enterprise Agreement that apply to level 2 hospitals are now applicable.

Implementation: 1 July 2022

Update list of hospitals in Schedule 2

Subsequent to Sunshine Hospital being re-categorised as a level 1 hospital, Schedule 2 has been amended to omit reference to Sunshine Hospital.

In accordance with Section 14 of the Principal Act, Sunshine Hospital will not be able to use more than 20 per cent enrolled nurses in meeting ratios in relation to general medical or surgical wards.

Implementation: 1 March 2019

Local dispute resolution

New section 41(5) of the Principal Act specifies that the local dispute resolution process does not apply to breaches of ratios alleged to have occurred during the period commencing on the day on which Part 2 of the Amendment Act comes into operation (that is, phase 1 of amendments commencing 1 March 2019) and ending 180 days after that day.

This 'grace period' provides operators of hospitals with 180 days following commencement of the legislation to become familiar with the amendments and, where necessary, adjust staffing levels to meet the new specified ratios.

Implementation: 1 March 2019

Clinical specialty ratios

Palliative care inpatient units

Section 23 of the Principal Act has been amended to specify new ratios in palliative care inpatient units.

An operator of a hospital must staff a palliative care inpatient unit with:

1 nurse for every 4 patients on a morning shift and 1 nurse in charge

1 nurse for every 4 patients on an afternoon shift and 1 nurse in charge

1 nurse for every 6 patients on a night shift and 1 nurse in charge.

Implementation: 1 March 2020

Acute stroke wards

Section 21A of the Principal Act sets out a new ratio requirement for acute stroke wards in all hospitals.

An operator of a hospital must staff an acute stroke ward with 1 nurse for every 3 patients and 1 nurse in charge on all shifts.

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.

Implementation: 1 March 2020

Oncology wards

Section 21B of the Principal Act sets out a new ratio requirement for oncology wards in all hospitals.

An operator of a hospital must staff an oncology ward with:

1 nurse for every 4 patients and 1 nurse in charge on the morning shift

1 nurse for every 4 patients and 1 nurse in charge on the afternoon shift

1 nurse for every 8 patients and 1 nurse in charge on the night shift.

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.

Implementation: 1 March 2020

Haematology wards

Section 21C of the Principal Act sets out a new ratio requirement for haematology wards in level 1 hospitals.

An operator of a level 1 hospital must staff a haematology ward with:

1 nurse for every 3 patients and 1 nurse in charge on the morning shift

1 nurse for every 3 patients and 1 nurse in charge on the afternoon shift

1 nurse for every 5 patients and 1 nurse in charge on the night shift.

> **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.

Implementation: 1 March 2020

Recommended actions: Clinical specialty ratios

Hospital operators should ensure all staff are familiar with the specific definitions of the clinical specialty areas to determine if these ratios apply.

Ensure all staff are educated about the details and commencement of the new ratios.

Where required, action any necessary recruitment strategies to ensure compliance with ratios.

In charge requirements – night shift

Note: In charge ratio improvements for Maternity services are outlined in the next section.

Level 1 hospitals

Section 15 of the Principal Act sets out the ratio requirement for general medical or surgical wards on night shift.

> **An operator of a level 1 hospital must staff a general medical or surgical ward on the night shift with 1 nurse for every 8 patients and 1 nurse in charge.**

Implementation: 1 July 2021

Level 2 hospitals

Section 16 of the Principal Act sets out the ratio requirement for general medical or surgical wards on night shift.

> **An operator of a level 2 hospital must staff a general medical or surgical ward on the night shift with 1 nurse for every 8 patients and 1 nurse in charge.**

Implementation: 1 July 2022

Level 3 hospitals

Section 17 of the Principal Act sets out the ratio requirement for general medical or surgical wards on night shift.

> **An operator of a level 3 hospital must staff a general medical or surgical ward on the night shift with 1 nurse for every 10 patients and 1 nurse in charge.**

Implementation: 1 July 2023

Geriatric evaluation management

Section 24(2) of the Principal Act sets out the ratio requirement for geriatric evaluation management beds on night shift.

> **An operator of a hospital must staff geriatric evaluation management beds on the night shift with 1 nurse for every 10 patients and 1 nurse in charge.**

Implementation: 1 July 2023

Maternity services

Neonatal intensive care units

Section 28 of the Principal Act has been amended to remove the specific references to Victorian hospitals that have neonatal intensive care units.

The ratios are now applicable to all hospitals with neonatal intensive care units.

> N**eonatal 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.

The operator of a hospital is also required to take into account the prescribed criteria in assessing whether a neonatal intensive care unit should be staffed beyond the minimum number of staff required when the ratio is applied. The prescribed criteria will be outlined in the amended Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Regulations 2015.

Implementation: 1 March 2019

Antenatal wards

Section 30 of the Principal Act has been amended to remove references to postnatal wards. Antenatal wards and postnatal wards now have standalone provisions to allow separate staffing arrangements in each setting.

Implementation: 1 March 2019

Postnatal wards

New section 31A of the Principal Act sets out staffing requirements for postnatal wards.

Staffing changes and education/experience requirements

A registered nurse may now be included in the staffing arrangements to meet the ratio requirements applicable to a postnatal ward.

In determining the staffing mix, the operator of a hospital must ensure that to comply with the ratio:

> at least one person is a midwife; and
>
> not more than one person is a nurse.

The operator of a hospital must also ensure that a nurse included within the ratios for a postnatal ward:

> must have completed a total of 48 hours' placement in a postnatal ward (noting that these hours are supernumerary to the relevant ratio); and
>
> must be undertaking a postgraduate midwifery program in the course of the nurse's employment by the hospital; and
>
> must satisfy the prescribed requirements.

The prescribed requirements will be outlined in the amended Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Regulations 2015.

Implementation: 1 March 2019

In charge requirement

Section 31A of the Principal Act has been amended to specify in charge requirements in postnatal wards on night shift.

> **An operator of a hospital must staff a postnatal ward on the night shift with 1 midwife or nurse for every 6 patients and 1 midwife or nurse in charge.**

Implementation: 1 July 2022

Special care nurseries

Staffing changes and education/experience requirements

A midwife may now be included in the staffing arrangements to meet ratio requirements applicable to a special care nursery.

> **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.

A nurse or a midwife included in the staffing ratios for a special care nursery must have completed:

> the equivalent of at least 64 hours' employment per fortnight as a nurse or a midwife during a 12-month period; or
>
> a total of 64 hours' placement in a special care nursery supernumerary to the relevant ratio.

For the purpose of ensuring appropriate care and treatment of infants, the operator of a hospital may increase the number of nurses within a special care nursery, in addition to the number of staff required as a minimum, after consideration of the prescribed criteria.

The prescribed criteria will be outlined in the amended Safe Patient Care (Nurse to Patient and Midwife to Patient Ratios) Regulations 2015.

Implementation: 1 March 2019

In charge requirement

Section 27 of the Principal Act has been amended to specify in charge requirements in special care nurseries.

> **Where a special care nursery has 8 or more occupied cots, a nurse in charge or a midwife in charge is required to be staffed on both the morning and afternoon shift.**

Implementation: 1 March 2020

> **Where a special care nursery has 8 or more occupied cots, a nurse in charge or a midwife in charge is required to be staffed on night shift.**

Implementation: 1 July 2022

Birthing suites

Terminology change

The term ‘Birthing suite’ has replaced ‘Delivery suite’ in all relevant references in the Principal Act.

Implementation: 1 March 2019

Reporting requirements: Nominate and publish details of birthing suites

See ‘Reporting requirements’ for further details.

Implementation: 1 March 2019

In charge requirement

Section 31 of the Principal Act has been amended to specify in charge requirements in birthing suites.

The operator of a level 1 hospital, a level 2 hospital or a level 3 hospital with 6 or more nominated birthing suites must provide a midwife in charge on the morning shift.

Implementation: 1 March 2020

The operator of a level 1 hospital, a level 2 hospital or a level 3 hospital with 6 or more nominated birthing suites must provide a midwife in charge on the night shift.

Implementation: 1 July 2022

The operator of a level 1 hospital, a level 2 hospital or a level 3 hospital with 6 or more nominated birthing suites must provide a midwife in charge on the afternoon shift.

Implementation: 1 July 2023

Recommended actions: Maternity services

Ensure all staff are educated about the details and commencement of the new ratios.

Where required, action any necessary recruitment strategies to ensure compliance with ratios.

Emergency departments

Emergency departments – resuscitation beds

Section 20 of the Principal Act has been amended to specify ratios for resuscitation beds in hospitals listed in Part 1 of Schedule 3 to the Principal Act.

> **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.

An operator of a hospital specified in Part 1 of Schedule 3 must staff 1 nurse for each resuscitation bed in the emergency department on the afternoon and night shift in addition to the current specified ratios for emergency departments.

A bed that has been allocated as a resuscitation bed is intended to only be a resuscitation bed for the purposes of the Principal Act (including in respect of the ratios that apply to a resuscitation bed) where the bed is being used as a resuscitation bed. For example, a bed in an emergency department that is allocated as a resuscitation bed, that is being used for the care of a patient other than for the assessment, resuscitation and treatment of a patient with critical conditions, is not a resuscitation bed.

The operator of a hospital will continue to be able to apply a ratio in a flexible way under section 9 of the Principal Act to evenly distribute the workload in an emergency department. For instance, a nurse assigned to a resuscitation bed under new section 20(1)(b)(ia) or (c)(ia) may be redeployed to staff a bed in an emergency department that is not a resuscitation bed, having regard to the level of care required by patients in the emergency department. It is not intended that a nurse staffed in respect of a resuscitation bed can only provide care to patients in a resuscitation bed.

Implementation: 1 March 2021

Recommended actions: Emergency departments

Ensure all staff are educated about the details and commencement of the new ratios.

Where required, action any necessary recruitment strategies to ensure compliance with ratios.

Nurse in charge in short stay observation area co-located with an emergency department

As noted in the 'General Hospital-wide changes' section above, the Amendment Act 2020 has amended section 12(A)(6A) of the Principal Act such that a nurse in charge is required on night shift for short stay observation areas that are co-located with an emergency department in a hospital specified in Part 1 of Schedule 3, and that has 30 or more occupied beds across the two areas.

This has the effect that an additional nurse in charge is required for the short stay observation area on night shift, further to the nurse in charge in the emergency department.

Implementation: 1 July 2022

Repeal of sections in the Principal Act

Emergency departments ‘night duty formula’ – repeal of section 20(2)

The ‘night duty formula’ specified in section 20(2) of the Principal Act provided a mechanism to reduce the number of nurses staffed in emergency departments (listed in Part 1 of Schedule 3 to the Principal Act) on the night shift if all beds were not utilised due to fewer presentations. This option has now been removed.

Any variation from ratios will require a local agreement with the relevant union.

Implementation: 1 March 2019

Variations from ratios – repeal of sections 33, 34 and 35

Sections 33, 34 and 35 of the Principal Act provided the ability for an operator of a hospital to vary ratios by way of a redistribution of nursing or midwifery hours, a below ratios distribution or a trial of an alternative established staffing model respectively. These options have now been removed.

Existing variations from ratios made under these provisions, that are in operation before the repeal of sections 33, 34 and 35, are saved under new section 50 of the Principal Act.

Section 36 of the Principal Act has been retained and allows hospitals the opportunity to consider alternative staffing arrangements in negotiation with the relevant union through local agreements.

Implementation: 1 March 2019

Ratio for mixed wards – repeal of sections 18(2), 24(3) and 24(4)

Section 18(2): aged high care beds in level 4 hospitals

Section 18(2) of the Principal Act specified that if some beds in an acute ward were generally occupied as aged high care beds in a level 4 hospital, the aged high care residential ward ratios would apply in respect of the patient in those beds.

Section 18(2) is no longer required as new section 12A of the Principal Act directs how to calculate a ratio for a ward that is configured to provide a mixture of clinical services.

Implementation: 1 March 2019

Section 24(3) and (4): rehabilitation and geriatric evaluation management beds

Section 24(3) and (4) of the Principal Act specified that if rehabilitation or geriatric evaluation management beds comprised less than 25 per cent of the occupied beds, the ratio that applied to the majority of beds in the ward would apply instead of the separate rehabilitation or geriatric evaluation management ratios.

Section 24(3) and (4) are no longer required as new section 12A of the Principal Act directs how to calculate a ratio for a ward that is configured to provide a mixture of clinical services.

Implementation: 1 March 2019