Queensland Government

Enquiries to: Mr David Noon
Manager
Cabinet and Parliamentary Services
Telephone: [redacted]
File Ref: [redacted]

14 JAN 2016

Ms Leanne Linard MP
Chair
Health and Ambulance Services Committee
Parliament House
George Street
BRISBANE QLD 4000

Dear Ms Linard

Thank you for your letter dated 3 December 2015, regarding the Health and Ambulance Services Committee's inquiry into the Hospital and Health Boards (Safe Nurse-to-Patient and Midwife-to-Patient Ratios) Amendment Bill 2015.

Please find enclosed, as requested, the Department of Health's written briefing to the Committee on the Bill.

Should you require further information, the Department of Health's contact for the inquiry is Mr David Noon, Manager, Cabinet and Parliamentary Services, on telephone [redacted]

Yours sincerely

Michael Walsh
Director-General
Queensland Health

Queensland Parliamentary Health and Ambulance Services Committee

Hospital and Health Boards (Safe Nurse-to-Patient and Midwife-to-Patient Ratios) Amendment Bill 2015

Departmental Briefing - January 2016

OVERVIEW OF THE BILL

SUMMARY

The primary purpose of the Hospital and Health Boards (Safe Nurse-to-Patient and Midwife-to-Patient Ratios) Amendment Bill 2015 (the Bill) is to amend the *Hospital and Health Boards Act 2011* (the Hospital and Health Boards Act) to establish a legislative framework to enable nurse-to-patient and midwife-to-patient ratios ('ratios') and workload provisions to be mandated in public sector health service facilities.

The Bill implements the Palaszczuk Government's commitment in the *Nursing Guarante*e policy, to legislate for mandated ratios and workload provisions to ensure patient safety and quality care.

CONTEXT

Extensive research undertaken over the last 20 years in over 32 countries has shown that a higher number of nurses relative to the number of patients has a positive impact on patient outcomes, including decreased lengths of stay in hospital and reduced inpatient mortality. Evidence also indicates that appropriate staffing numbers benefits the nursing workforce by reducing work-related injuries, absenteeism and turnover and increasing job satisfaction.

The negative consequences of decreased nurse staffing levels have been well documented in a number of reviews of the National Health Service, undertaken in the United Kingdom. For example, the Francis Report (2013) identified poor clinical care following staffing level reductions and more broadly the Keogh Review (2013) found that inadequate nurse staffing was related to high mortality rates. In a study conducted in Belgium in 2009, mortality following cardiac surgery was significantly lower in hospitals with higher numbers of nurses relative to patients. In 2012, a study undertaken in Switzerland found that increased surgical mortality was associated with inadequate nurse staffing.

In 2009, the European Commission funded a research project (RN4CAST) to inform policy regarding human resource management in nursing. RN4CAST was a consortium of 15 partners in Belgium, Finland, Germany, Greece, Ireland, Poland, Spain, Sweden, Switzerland, Netherlands and the United Kingdom that examined a range of hospital environmental factors and their impact on patient safety. The results of that study found that hospitals in which nurses cared for fewer patients each had significantly lower mortality than hospitals in which nurses cared for more patients. In particular, analysis of 300 hospitals in nine countries showed that an increase in nurses' workloads by one patient increases the likelihood of inpatient hospital mortality by seven per cent. This study advocates for a safe level of hospital nurse staffing to reduce inpatient mortality. A retrospective study of over 1.2 million patients discharged from 665 hospitals in the United States was published in 2011. The results indicate that there is a sizable and positive effect on patient mortality and fewer failure-to-rescue incidences where there are higher numbers of nurses relative to patients.

A study undertaken in South Korea and published in 2015 reviewed the effects of nurse staffing on patient mortality. The research was undertaken across 14 hospitals involving over 1000 nurses and over 75,000 patients and used similar research methods to RN4CAST. The average workload for a nurse working in South Korea is 11.4 which is about twice as many patients as the average workload for nurses in the United States (5.7 patients) and some European countries, including Finland (5.5 patients), Sweden (5.4 patients), and Norway (3.7 patients). The findings of this study confirmed that a lower number of nurses relative to patients is associated with higher patient mortality rates in the sense that each additional patient per nurse

is associated with a 5% increase in the likelihood of the death of the patient within 30 days of admission.

In the United States of America, the state of California enacted minimum nurse staffing requirements in legislation and supporting regulations in 2004. Over the following five years, another thirteen states followed suit. In 2009, research was undertaken to highlight the difference that mandated minimum nurse ratios had made regarding patient and staff outcomes. This research identified that, for example, a significantly lower proportion of nurses in California experience burnout and that Californian nurses are more likely to stay in their jobs as a result of the legislation. Nurses in California are also less likely to report being dissatisfied with their jobs.

Currently, ratios are not legislatively mandated in Queensland. Instead, notional ratios are determined in public sector health facilities through the application of the Q*ueensland Health Business Planning Framework: Nursing Resources* (BPF), which is an industrially mandated instrument under the *Nurses and Midwives (Queensland Health) Certified Agreement (EB8) 2012*. The BPF sets out the workload management methodology for calculating the nursing and midwifery hours required to provide an appropriate, professional and safe standard of health service. In practice, the BPF is underpinned by adherence to nursing and midwifery professional college standards and the application of good clinical judgement in determining the appropriate nursing and midwifery staffing levels and skill mix to meet service demand.

The Government has endorsed minimum ratios of one nurse/midwife for every four patients (1:4) on morning and afternoon shifts, and one nurse/midwife for every seven patients (1:7) for night shifts. The minimum ratios will apply to prescribed wards, units or departments within prescribed public sector health facilities.

It is proposed that minimum ratios will be implemented in a phased manner at prescribed public sector health service facilities across Queensland from 1 July 2016.

SUMMARY OF KEY PROVISIONS

The Bill amends the Hospital and Health Boards Act to provide the required heads of power and associated provisions to enable minimum ratios and workload provisions to be mandated through a legislative framework.

Commencement

Subject to passage, the Bill will commence on 1 July 2016.

Power to prescribe minimum ratios (clause 5, s138B)

The Bill establishes a head of power to enable the Government to legislate for minimum nurse-to-patient and midwife-to-patient ratios by regulation, defined in the Bill as a *nursing and midwifery regulation.* The Bill enables ratios to be prescribed by stated Hospital and Health Services; at stated facilities or parts of facilities such as specific wards, units or departments; at stated times and at stated circumstances. This legislative approach is designed to enable ratios to be implemented in Hospital and Health Services in a phased manner. A nursing and midwifery regulation will also be able to prescribe requirements relating to the skills and qualifications of the midwives and nurses (known as ‘skill mix’).

Temporary exemptions (clause 5, s138C)

The Bill enables the Minister for Health to temporarily exempt a Hospital and Health Service from the requirement to comply with a nursing and midwifery regulation for a stated period of up to three months, and to extend the exemption by up to three months if required. This acknowledges that extenuating circumstances may arise from time to time that temporarily prevent a Hospital and Health Service from sustaining appropriate staffing levels in a prescribed ward or facility. Such situations may include challenges in recruiting and training nursing and midwifery staff; providing appropriate levels of supervision and support; or providing accommodation or other infrastructure for additional staff.

A temporary exemption may exempt a Hospital and Health Service from all or part of the regulation, or vary the application of a regulation so that it imposes a lesser requirement. The Minister may also place conditions on an exemption.

Matters for the Minister to consider (clause 5, s138D)
The Bill requires that before the Minister for Health makes a nursing and midwifery regulation applying ratios to a Hospital and Health Service, or grants or extends a temporary exemption, the Minister must consider the Service's capability to comply with the regulation and the likely effects of compliance on the Service. The Bill also outlines a range of issues the Minister may consider in deciding this matter including the likely financial costs of compliance; any matter that may affect the ability of the Service to recruit and retain staff; the infrastructure that the Service has, or can acquire, to support staff; and the potential effects on health services delivered by the Service, of actions the Service may reasonably need to take to comply with the regulation.

Standards about nursing and midwifery workload management (clause 5, s138E)
The Bill enables the chief executive of the Department of Health to make a standard about nursing and midwifery workload management. A standard may include requirements about how a Hospital and Health Service calculates its nursing and midwifery staffing requirements; develops and implements strategies to manage staff supply and demand; evaluates staff performance; or reports nursing and midwifery workload management information to the chief executive. It is intended that the methodology in the BPF will provide the basis for the standard. A standard will be binding on a Service but will only apply to those parts of a facility that are subject to ratios.

Publication of information about workload management (clause 5, s138F)
The Bill enables the chief executive of the Department of Health to require Hospital and Health Services to provide information relating to their nursing and midwifery workload management and enables the chief executive to publish the information. It is intended that under this provision, Services will provide the chief executive with information regarding their compliance with ratios and the standard in respect of prescribed facilities and wards, and their compliance with the BPF in respect of non-prescribed facilities and wards.

Delegation of powers (clause 4, s46; clause 6, s279)
The Bill provides that the powers of the Minister for Health to grant and extend temporary exemptions under section 138C, and the chief executive of the Department of Health to make workload management standards under section 138E, may not be delegated.

IMPLEMENTATION

Implementation of the ratios by Hospital and Health Services will be supported by staff from Hospital and Health Services and the Department of Health. Currently, many of the Hospital and Health Services employ a nurse to assist with implementation of the BPF. These staff are familiar with calculating staffing requirements and managing staff supply and demand. The Department of Health is currently working with the Executive Directors of Nursing and Midwifery and the BPF nurses to determine the current nursing and midwifery staffing levels and identify the extent to which they comply with the proposed legislation. The Department of Health will also work with Hospital and Health Services to identify strategies to manage identified gaps in staff availability.

CONSULTATION

Consultation with Hospital and Health Services and the Queensland Nurses' Union has been ongoing during the development of the legislation.

Representatives from twelve Hospital and Health Services, including Executive Directors of Nursing, Chief Finance Officers, Chief Operating Officers, Directors of Nursing and Nurse Unit Managers as well as a representative from the Queensland Nurses' Union have provided the Department of Health with advice and support in relation to the project. This group has reviewed the development and implementation of the project, the communication and engagement strategy and the evaluation for the project including the mechanisms for monitoring and reporting.

There have also been a number of workgroups, comprised of staff from the Hospital and Health Services, formed to assist with particular aspects of the project. At the departmental level, the Nursing and Midwifery Program Steering Committee provides strategic advice to the Director-General regarding the activities of the Office of the Chief Nursing and Midwifery Officer including the nurse-to-patient ratio project. This committee is comprised of representatives from public and private health services as well as health industry leaders.

Exposure drafts of the Bill, nursing and midwifery regulation and workload management standard were also distributed to a range of stakeholders including Hospital and Health Services; Queensland Nurses' Union; nursing and midwifery professional colleges; Queensland schools of nursing and midwifery; Australian Medical Association (Queensland); Australian Workers' Union; Together Union; and private health sector organisations. While stakeholders proposed a range of amendments to the suite of draft legislation, most were generally supportive of mandated ratios. The Private Hospitals Association of Queensland and the Friendly Society Private Hospital oppose the proposal to legislate for ratios. However, it should be noted that mandated ratios are not proposed for the private sector in the legislation.