

Health Services (Private Hospitals and Day Procedure Centres) Amendment Regulations 2018

The Governor in Council makes the following Regulations:

Dated:

Responsible Minister

JILL HENNESSY
Minister for Health

Clerk of the Executive Council

1 Objective

The objective of these regulations is to amend the Health Services (Private Hospitals and Day Procedure Centres) Regulations 2013 to reflect amendments to the Health Services Act 1988 made by the Health Services Amendment Act 2016, and for other purposes.

2 Authorising provision

These regulations are made under section 158 of the **Health Services Act 1988**.

3 Commencement

These regulations come into operation on 1 July 2018.

4 Principal Regulations

In these regulations, the Health Services (Private Hospitals and Day Procedure Centres) Regulations 2013 are called the Principal Regulations.

5 Definitions

In regulation 5 of the Principal Regulations—

- (1) For the definition of “*medical health services*” substitute—

“**medical health services** means health services provided to a patient by a registered medical practitioner that involve diagnosis and treatment and either require—

(a) nursing supervision and care; or

(b) the use of anaesthesia;

or both, but does not include emergency stabilisation treatment;”

(2) For the definition of **registered nurse substitute**—

“**registered nurse** means a person registered under the *Health Practitioner Regulation National Law (Victoria) Act 2009*—

(a) to practise a health profession; and

(b) whose name appears on the Register of Nurses;”

(3) For the definition of **speciality health services substitute**—

“**speciality health services** means health services that are ordinarily undertaken by, or under the supervision of, a registered medical practitioner, a registered dental practitioner, a registered medical radiation practitioner, or a registered podiatrist that require either:

(a) the use of specialist equipment; or

(b) the area in which the services are provided to be fitted out specifically for those kinds of services;

or both, and are prescribed speciality health services listed in either regulation 6 or regulation 7 or both.”

(4) For the definition of **surgical health services substitute**—

“**surgical health services** means health services ordinarily provided by a registered medical practitioner, registered dental practitioner, registered medical radiation practitioner, or a registered podiatrist that involve the use of surgical instruments and an operating theatre, procedure room, or treatment room and require one or more of —

(a) the use of anaesthesia;

(b) the attendance of one or more other registered health practitioner; or

(c) post-operative observation of the patient by nursing staff;

but does not include emergency stabilisation treatment;”

(5) **Insert** the following definitions—

“**admission** means where a patient is formally admitted to a registered health service establishment on the orders of a registered medical practitioner, a registered dental practitioner, a registered medical radiation practitioner, or a registered podiatrist and requires an admission procedure with completion of registration documents and a formal acceptance of the patient by the establishment;

anaesthesia means general anaesthesia, major regional anaesthetic blocks, intravenous sedation or high doses of local anaesthetic that have the potential to cause systemic toxicity but does not include dental nerve blocks;

bed includes an emergency bed, an intensive care unit bed, an in-patient overnight or day bed, an in-patient overnight or day cot, a stage 1 recovery bed, a stage 2 recovery bed, or an oncology or renal treatment chair;

emergency stabilisation treatment means immediate on-site treatment of a patient to stabilise and manage a serious or a life threatening condition or to manage significant pain whilst awaiting transport to an appropriate health service;

intravenous sedation means the administration of sedative or pain relieving drugs via a cannula inserted into the vein of a patient;

mobile health service delivery means where any health service of a prescribed kind is taken to patients rather than being provided from a single premises;

open disclosure policy means a policy that includes open discussion with a patient, the patient's family and carers of any adverse event that results in harm to the patient;

registered dental practitioner means a person registered under the *Health Practitioner Regulation National Law (Victoria) Act 2009*—

- (a) to practise a health profession; and
- (b) whose name appears on the Register of Dental Practitioners;

registered medical practitioner means a person registered under the *Health Practitioner Regulation National Law (Victoria) Act 2009*—

- (a) to practise a health profession; and
- (b) whose name appears on the Register of Medical Practitioners;

registered medical radiation practitioner means a person registered under the *Health Practitioner Regulation National Law (Victoria) Act 2009*—

- (a) to practise a health profession; and
- (b) whose name appears on the Register of Medical Radiation Practitioners;

registered midwife means a person registered under the *Health Practitioner Regulation National Law (Victoria) Act 2009*—

- (a) to practise a health profession; and
- (b) whose name appears on the Register of Midwives;

registered podiatrist means a person registered under the *Health Practitioner Regulation National Law (Victoria) Act 2009*—

- (a) to practise a health profession; and
- (b) whose name appears on the Register of Podiatrists;

rules means the written rules of a health service establishment made in accordance with regulation 7A.

sentinel event means any unanticipated event in a healthcare setting resulting in death or serious physical or psychological injury to a patient or patients, not related to the natural course of the patient's illness;”

- (6) The definitions of *artificial insemination*, *assisted reproductive treatment*, *registered dental specialist*, *registered dentist*, and *registered podiatric surgeon* are **revoked**.

6 Day procedure centres

For regulation 6(c)(i) – (xi) of the Principal Regulations **substitute**—

- “(c) specialty health services for the provision of—
- (i) anaesthesia; or
 - (ii) bariatric procedures; or
 - (iii) endoscopy; or
 - (iv) cataract surgery; or
 - (v) liposuction; or
 - (vi) mental health services; or
 - (vii) oocyte retrieval; or
 - (viii) oncology (chemotherapy); or
 - (ix) oncology (radiation therapy); or
 - (x) orthopaedic surgery; or
 - (xi) paediatric services; or
 - (xii) renal dialysis; or
 - (xiii) specialist rehabilitation services;
- including where the service is provided by way of mobile health service delivery.”

7 Private Hospitals

For regulation 7(c)(i) – (xiii) of the Principal Regulations **substitute**—

- “(c) specialty health services for the provision of—
- (i) alcohol or drug withdrawal (detoxification); or
 - (ii) anaesthesia; or
 - (iii) bariatric procedures; or
 - (iv) cardiac catheterisation; or
 - (v) cardiac surgery; or
 - (vi) cataract surgery; or
 - (vii) emergency medicine; or
 - (viii) endoscopy; or
 - (ix) intensive care; or

- (x) liposuction; or
 - (xi) mental health services; or
 - (xii) neonatal services; or
 - (xiii) neurosurgery; or
 - (xiv) obstetrics; or
 - (xv) oncology (chemotherapy); or
 - (xvi) oncology (radiation therapy); or
 - (xvii) oocyte retrieval; or
 - (xviii) paediatric services; or
 - (xix) renal dialysis; or
 - (xx) specialist rehabilitation services;
- including where the service is provided by way of mobile health service delivery.”

8 New regulations 7A—Rules and 7B—Definitions

After regulation 7 of the Principal Regulations and **insert—**

“7A Rules

- (1) The proprietor of a health service establishment must implement rules which include processes for—
 - (a) assessing on a three-yearly basis the credentials, and defining and authorising the scope, of practice of a registered medical practitioner, a registered dental practitioner, a registered medical radiation practitioner, or a registered podiatrist that practises at the health service establishment; and
 - (b) assessing the organisational capability of each health service establishment in which a registered medical practitioner, a registered dental practitioner, a registered medical radiation practitioner, or a registered podiatrist treats patients; and
 - (c) continuing assessment of the competence and performance of a registered medical practitioner, a registered dental practitioner, a registered medical radiation practitioner, or a registered podiatrist; and
 - (d) continuing assessment of the organisational capability of each health service establishment in which a registered medical practitioner, a registered dental practitioner, a registered medical radiation practitioner, or a registered podiatrist treats patients and, if necessary, the re-definition of the authorised scope of clinical practice in relation to the health service establishment;
 - (e) frequency of and procedures for meetings of committees at the health service establishment with responsibility for patient safety, which may include, but is not limited to, the medical advisory committee, the quality and safety committee, and the board of the health service establishment; and

- (f) the management of quality and safety at each premises, including a requirement that the highest level of governance at the premises has responsibility for quality and safety and includes quality and safety as a standing item on the agenda of its meetings.

7B Definitions

In this Part—

alcohol or drug withdrawal (detoxification) means treatment and care of patients undergoing the acute phase of withdrawal from alcohol and/or other drugs on which they are physically dependent, involving medical supervision where the patient is admitted overnight;

bariatric procedures means treatment that promotes weight loss by changing the digestive system's anatomy or inserting a device that limits the amount of food that can be eaten or regulates appetite;

cardiac catheterisation means a procedure involving the passing of a catheter, or other instrument, through a major blood vessel and into the heart for a diagnostic or therapeutic purpose;

cardiac surgery means surgery within or on the heart;

cataract surgery means a procedure to replace the lens of an eye;

emergency medicine means the treatment of patients injured in accidents, or those suffering from medical emergencies, through the provision of resuscitation, medical and surgical treatment and use of life support systems;

endoscopy means treatment using a flexible, hollow endoscope that can accommodate the passage of an instrument to examine the upper or lower gastrointestinal tract;

intensive care means the observation, care and treatment of patients with life threatening or potentially life threatening illnesses, injuries or complications, from which recovery is possible, in a facility that is specifically staffed and equipped for that purpose;

liposuction means any procedure involving the transfer or removal of fat of more than 200 ml of lipoaspirate;

mental health services means treatment of mental or emotional illness symptoms, conditions or disorders;

neonatal services means the care and treatment of a baby under the age of 28 days;

neurosurgery means surgical treatment of any portion of the nervous system including the brain, spinal cord, peripheral nerves, and extra-cranial cerebrovascular system;

obstetrics means antenatal care related to child birth, assistance and care associated with child birth, surgical intervention in achieving childbirth and care and assistance of a mother admitted to the facility immediately after childbirth;

oncology (chemotherapy) means treatment using parenteral administration of one or more cytotoxic agents;

oncology (radiation therapy) means the use of high-energy radiation to kill cancer cells and diminish tumors;

oocyte retrieval means the removal of oocytes from the ovary of a woman;

paediatric services means health services provided to patients between the ages of 28 days and 18 years;

renal dialysis means (haemodialysis) treatment that uses a dialyzer machine to remove waste and excess water from the blood;

specialist rehabilitation services means long-term rehabilitation and specialised physical rehabilitation.”

9 Application for approval in principle

For regulation 8(2) of the Principal Regulations **substitute**—

“(2) For the purposes of section 70(2)(b) of the Act, the prescribed fee is as follows:

- (a) in respect of an application to build a new private hospital the prescribed fee is 325 fee units;
- (b) in respect of an application to renovate an existing private hospital the prescribed fee is 290 fee units;
- (c) in respect of an application to build a new day procedure centre the prescribed fee is 285 fee units; and
- (d) in respect of an application to renovate an existing day procedure centre the prescribed fee is 276 fee units.”

10 Application for registration

In regulation 10(2) of the Principal Regulations for “55.2 fee units” **substitute**—

“set out in the Table in regulation 12A.”

11 Annual fees

For regulation 11 of the Principal Regulations **substitute**—

“**11 Annual fees**

For the purposes of section 87 of the Act, the prescribed annual fee for a health service establishment is zero.”

12 Application for renewal of registration

In regulation 12(2) of the Principal Regulations for “54.2 fee units” **substitute**—

“ set out in the Table in regulation 12A.”

13 New regulation 12A—Registration and renewal of registration fees

After regulation 12 of the Principal Regulations **insert**—

“**12A Registration and renewal of registration fees**

TABLE

<i>Column 1</i>	<i>Column 2</i>
<i>Number of beds for which the health service establishment is registered</i>	<i>Fee units over 2 years</i>
0-26	366
27-50	405
51-75	445
76-100	484
101-150	543
151-200	623
201-300	701
301-400	820
401-500	978
501 or more	1,175

14 New regulation 13A—Application for approval of alterations to clinical area

After regulation 13 of the Principal Regulations **insert**—

“13A Application for approval of alterations to clinical area

For the purposes of section 108(2) of the Act—

(a) the prescribed form is the form in Schedule 7; and

(b) the prescribed fee is 16.1 fee units.”

15 Senior Appointments

(1) In regulation 14(1) after the words “day procedure centre” **insert** “, that does not include mobile health service delivery,”.

(2) For regulation 14(2) of the Principal Regulations **substitute**—

“For the purposes of subregulation (1), a person is suitably qualified if he or she is a registered nurse and has at least 12 months’ practical experience in nursing management and at least five years’ clinical experience as a registered nurse.”

16 New regulation 18A—Independent practitioner on highest level of governance at premises

After regulation 18 of the Principal Regulations **insert**—

“18A Independent practitioner on highest level of governance at premises

The proprietor of a health service establishment must ensure that the decision making body that is the highest level of governance at a premises of the establishment includes a registered medical practitioner, a registered dental

practitioner, a registered medical radiation practitioner, or a registered podiatrist who does not provide health services at the premises.”

17 Admission and discharge of patients

For the heading to Part 5 of the Principal Regulations **substitute—**

“PART 5—ADMISSION AND DISCHARGE OF PATIENTS”

18 New division 2A—Pre-admission and discharge requirements

After Division 2 of Part 5 of the Principal Regulations **insert—**

“Division 2A—Pre-admission and discharge requirements

20A Pre-admission assessment

- (1) The proprietor of a health service establishment must in respect of every patient admitted to the establishment—
 - (a) except for emergency admissions, record at least 24 hours prior to admission, that each patient has completed a pre-admission clinical risk assessment;
 - (b) record that every patient admission is cross-checked against the scope of practice of the registered health practitioner treating the patient; and
 - (c) not admit the patient if the patient cannot be treated and managed safely at the health service establishment.

20B Discharge information to be given to patients

- (1) The proprietor of a health service establishment, other than where the health services have been provided by mobile health service delivery from the premises of another health service establishment, must at discharge—
 - (a) provide patients with a clear written explanation of any recommendations and arrangements that have been made for the patient’s follow-up care; and
 - (b) provide each patient with a copy of the discharge summary and forward a copy of the patient’s discharge summary to the patient’s general practitioner.
- (2) The patient’s discharge summary must include:
 - (a) the full name of the patient;
 - (b) the date of birth of the patient;
 - (c) the medical or surgical procedure received by the patient;
 - (d) post-discharge instructions for patient care; and
 - (e) a list of any prescribed medications.

20C Information provided to patient transport

The proprietor of a health service establishment must ensure that a written patient clinical handover is provided to the crew of any patient transport used to transfer the patient from the health service establishment.”

19 New regulation 26A—Oversight of surgical lists and stage 1 post-operative care

After regulation 26 of the Principal Regulations **insert—**

“26A Oversight of surgical list and stage 1 post-operative care

- (1) Where the Director of Nursing is not located at a health service establishment on a day a surgical list is being run, the proprietor of the health service establishment must direct an on-site registered nurse with at least three years’ relevant training and clinical experience to oversee the surgical list and stage 1 post-operative patient care.
- (2) The proprietor of a health service establishment where maternity, obstetric or neonatal services are provided, must ensure that a registered midwife with at least three years’ relevant training and clinical experience is on-site to provide clinical oversight at all times when patients are receiving maternity, obstetric or neonatal services.”

20 New regulation 28A—Evacuation plan

After regulation 28 of the Principal Regulations **insert—**

“28A Evacuation plan

The proprietor of a health service establishment must have a current written evacuation plan for all patients and staff and ensure that all staff are trained in its implementation.”

21 New regulation 28B—Reversible agents must be available

“28B Reversible agents must be available

The proprietor of a health service establishment must ensure that where anaesthesia or sedation involves the use of drugs for which reversible agents are available, immediate access to those reversible agents must be provided on the premises.”

22 New regulation 32A—Open disclosure

After regulation 32 of the Principal Regulations **insert—**

“32A Open disclosure

The proprietor of a health service establishment must implement an open disclosure policy.”

23 New regulation 35A—Patient experience data

After regulation 35 of the Principal Regulations **insert—**

“35A Patient experience data

The highest level of governance at a premises of a health service establishment must:

- (a) collect patient experience data;
- (b) review patient experience data; and
- (c) make patient experience data available to the department on request.”

24 New regulation 36A—Staff safety culture data

After regulation 36 of the Principal Regulations **insert**—

“36A Staff safety culture data

The highest level of governance at a premises of a health service establishment must:

- (a) collect staff safety culture data;
- (b) review staff safety culture data; and
- (c) make staff safety culture data available to the department on request.”

25 New regulation 37A—Drug register

After regulation 37 of the Principal Regulations **insert**—

“37A Drug register

- (1) The proprietor of a health service establishment must keep a drug register in each operation theatre and procedure room of the health service establishment; and
- (2) The proprietor of the health service establishment must ensure that in the drug register referred to in subregulation (1), the following details are recorded—
 - (a) the name and quantity of each drug administered to a patient, including details of the batch number and any vial or source container;
 - (b) the name of the registered health practitioner who administered the drug;
 - (c) the name and unit record number of each patient administered a drug; and
 - (d) the name and quantity of each drug discarded, including details of the batch number and any vial or source container.”

26 New regulation 43A—Premises, staff and equipment used during mobile health service delivery

After regulation 43 of the Principal Regulations **insert** —

“43A Premises, staff and equipment used during mobile health service delivery

- (1) The proprietor of a health service establishment where some or all of the health services are provided by way of mobile health service delivery must:
 - (a) only provide health services from a premises that the proprietor has assessed as being suitable for the provision of safe patient care;
 - (b) ensure that suitable numbers of staff with appropriate and current training and experience are available to assist with providing the health services; and
 - (c) ensure that there is appropriate equipment available to provide a service that is safe for patients.”

27 Returns made to the Secretary

For regulation 46 of the Principal Regulations **substitute**—

“46 Returns to be made to the Secretary

- (1) The proprietor of a health service establishment must:
 - (a) prepare a return for each month containing data uploaded to the Victorian Admitted Episodes Dataset; and
 - (b) ensure that a return prepared under subregulation 46(1)(a) is forwarded to the Secretary:
 - (i) if the return relates to admission and separation data, within 17 days after the end of the month to which the return relates; and
 - (ii) if the return relates to clinical data, within 17 days after the end of the second month to which the return relates.

Penalty: 40 penalty units.
- (2) For the purposes of subregulation 46(1)(a), *Victorian Admitted Episodes Dataset* means admission, separation and clinical data submitted in accordance with the Victorian Admitted Episodes Dataset business rules.
- (3) From 1 July 2019, the proprietor of a health service establishment must prepare a return for each month containing the following where applicable—
 - (a) data uploaded to the Victorian Hospital-acquired Infection Surveillance System;
 - (b) electroconvulsive therapy data; and
 - (c) data uploaded to the Victorian Emergency Minimum Dataset.

Penalty: 40 penalty units.
- (4) The proprietor of a health service establishment must provide a copy of each National Safety and Quality Health Service Standards report received, to the Secretary within 14 days of the receipt of the report.

Penalty: 40 penalty units.
- (5) The proprietor must ensure that, unless otherwise specified in this regulation, a return prepared under this regulation is forwarded to the Secretary—
 - (a) within 17 days after the end of the month to which the return relates; or
 - (b) if the Secretary has determined a time being not less than 14 days after the end of the month to which the return relates, and has notified the proprietor in writing of that time, within that time.

Penalty 40 penalty units.

28 New regulation 46A —Reporting of sentinel events

After regulation 46 of the Principal Regulations **insert**—

“46A Reporting of sentinel events

The proprietor of a health service establishment must report a sentinel event to the Secretary.

Penalty: 40 penalty units.”

29 Schedules

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ENDNOTES

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