



Regulatory Bulletin

Workforce-related responsibilities – including 24/7 registered nurse and care minutes

RB 2023-19

In this regulatory bulletin, the Aged Care Quality and Safety Commission (Commission) discusses the workforce-related responsibilities of approved providers, including the additional responsibilities for 24/7 registered nurse coverage and care minutes that are being introduced from 1 July and 1 October 2023 respectively for approved providers of residential aged care. The bulletin explains how the Commission will regulate these responsibilities.

This bulletin refers to the *Aged Care Amendment (Implementing Care Reform) Act 2022*, the *Aged Care Legislation Amendment (Registered Nurses) Principles 2023*, the *Aged Care Act 1997*, and the Aged Care Quality Standards.



Key points

- Approved providers have responsibilities under the *Aged Care Act 1997* and subordinate legislation to engage appropriately skilled staff and to deliver safe and effective care and services.
 - Residential aged care providers must also meet mandatory care time responsibilities. These require providers to have at least one registered nurse (RN) on-site and on duty at each residential facility they operate 24 hours a day, 7 days a week from 1 July 2023. Providers are also required to meet care minutes targets from 1 October 2023.
 - Approved providers will be supported to meet their responsibilities and to implement appropriate and robust workforce governance and management processes. This will occur through engagement and education, specific program supports and, in certain cases, exemptions from the responsibility to have an RN on-site and on duty at all times.
 - Eligible approved providers can apply to the Department of Health and Aged Care (Department) for a time-limited exemption from the 24/7 RN responsibility.
 - The Commission will actively monitor risks for consumers with regard to how approved providers are responding to their care minutes and 24/7 RN responsibilities, including where there are exemptions from the 24/7 RN responsibility.
- The Commission recognises that the aged care sector is affected by external pressures which may present challenges to approved providers in attracting and retaining a suitably skilled and competent workforce.
- Where a provider demonstrates a willingness to take all reasonable steps to comply with their responsibilities, the regulatory response will be different from the action taken if a provider is unable to demonstrate a suitable response, or deliberately avoids compliance with their obligations and may be placing consumers at risk of harm.
 - Providers will need to be able to evidence their alternative clinical care arrangements and describe how the care needs of consumers, including those requiring higher level and/or complex care, are met in instances when an RN is not on-site and on duty at the facility
 - The Commission is committed to protecting older Australians receiving residential aged care, including through the effective regulation of approved providers to ensure that the care needs of consumers are met.



Regulating workforce-related responsibilities, including 24/7 registered nurse and care minutes

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- Approved providers of residential aged care

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Notes: This Regulatory Bulletin outlines the legislative provisions regarding workforce governance and management with which approved providers of residential aged care must comply from 1 July 2023 and 1 October 2023

To be reviewed: 13 April 2024



Regulating workforce-related responsibilities, including 24/7 registered nurse and care minutes

Introduction

Approved providers have responsibilities under the *Aged Care Act 1997* (the Act) and associated legislation (including the Aged Care Quality Standards within the [Quality of Care Principles](#)) to engage appropriately skilled staff and to deliver safe and effective care and services. Consumers also have the right to receive safe and high-quality care and services as stated in the [Charter of Aged Care Rights](#).

Approved providers are required to maintain an adequate number of appropriately skilled staff to ensure that the care needs of consumers are met. This includes having sufficient staff to deliver safe and effective clinical care as well as having an effective clinical governance framework. Approved providers must ensure that nursing services (clinical care services) are carried out by a nurse practitioner, registered nurse (RN), enrolled nurse (EN) or other professional acting within their scope of practice.

To support these requirements, the Australian Government has committed to implementing the recommendations of the Aged Care Royal Commission which identified that staffing levels are critical to the quality of residential aged care. To fulfil this commitment, mandatory care time responsibilities are being introduced for residential aged care providers. These consist of specific responsibilities with regard to RN staffing

that commence on 1 July 2023 and mandatory care minutes targets that commence on 1 October 2023.

The mandatory care time responsibilities complement the arrangements that residential aged care providers already have in place to reduce the risk of harm to consumers, enhance consumers' access to effective clinical care, and ensure the delivery of safe and quality care. In particular, RNs have an essential role in the provision of aged care, overseeing quality clinical care and providing an escalated response to changed or critical care needs.

The Aged Care Quality and Safety Commission (the Commission) recognises that the aged care sector is affected by external pressures which may at times present challenges to attracting and retaining a suitably skilled and competent workforce.

Approved providers are expected to undertake comprehensive workforce planning to manage immediate and longer-term workforce supply and to ensure the continuity of safe and quality care for consumers at all times. This is required to ensure that approved providers meet their legislative responsibilities (including those under Quality Standards 7 and 8 that pertain to human resources and governance respectively) and take into account external workforce challenges.



In instances where approved providers cannot maintain an adequate number of sufficiently skilled staff, they must deploy strategies to ensure that the care needs, and particularly the clinical care needs, of consumers are met at all times.

Mandatory care time responsibilities for residential aged care providers

Residential aged care providers are required to:

- **from 1 July 2023**, ensure that at least one RN is on-site and on duty at all times (i.e. 24 hours per day, 7 days per week), at each residential facility.
- **from 1 July 2023**, submit monthly reports to the Department of Health and Aged Care (Department) about the 24/7 RN responsibility, including any additional information or documents requested by the Department on this matter. Approved providers must report on:
 - every period of 30 minutes or more that an RN was not on-site and/or not on duty at each residential facility;
 - the reason an RN was not on-site and/or on duty for each period; and
 - the alternative arrangements that were made to ensure clinical care needs were met while an RN was not on-site and/or on duty (or that alternative arrangements were not made) for each period.

Please see further information on page 15 regarding the definition of ‘on-site’ and ‘on duty’.

- **from 1 October 2023**, deliver an average of 200 minutes, including 40 minutes by an RN, of care per resident per day by RNs, ENs, and personal care workers (PCWs) or assistants in nursing (AINs).
- **From 1 October 2024**, this will increase to 215 care minutes, including 44 minutes by an RN, of care per resident per day. Approved providers are required to report on care minutes through the Quarterly Financial Report (QFR).

The [Australian National Aged Care Classification \(AN-ACC\)](#) funding model includes funding to cover the cost of providing direct care (through RNs, ENs and PCW/AINs) to residents, including the wages for these aged care workers.

Facilities with more than 60 consumers on average per day receive sufficient funding through the [Australian National Aged Care Classification \(AN-ACC\) Basic Subsidy](#) to deliver 24/7 RN care to their consumers.

Facilities with 60 consumers or fewer on average per day may access the 24/7 RN [funding supplement](#) from 1 July 2023 for additional support to meet the responsibility.

Approved providers are responsible for ensuring that they understand their care time responsibilities. Approved providers should familiarise themselves with the information on the [Department’s website](#) and the [Care Minutes and 24/7 Registered Nurse Responsibility Guide](#).



Existing approved provider responsibilities regarding appropriate staffing to ensure that care needs are met

All approved providers must comply with existing responsibilities in relation to maintaining an adequate number of appropriately skilled staff, in order to ensure that the care needs of consumers are met, and to deliver safe and effective clinical care. These requirements currently exist under the Aged Care Act and the Quality Standards.

Under **Part 4.1 Quality of Care, section 54-1(1)(b) of the Aged Care Act**, approved providers are responsible for maintaining an adequate number of appropriately skilled staff to ensure that the care needs of consumers are met.

Under the **Quality Standards**, approved providers must meet requirements (3) (a) and (b) under **Standard 2 Ongoing assessment and planning with consumers**, which stipulate that:

- (a) assessment and planning, including consideration of risks to the consumer's health and well-being, inform the delivery of safe and effective care and services.
- (b) assessment and planning identify and address the consumer's current needs, goals, and preferences, including advance care planning and end of life planning if the consumer wishes.

Approved providers must meet all requirements under **Standard 3 Personal care and clinical care**, which prescribe the delivery of safe and effective personal care, clinical care, or both personal care and clinical care. This must be done in accordance with the consumer's needs, goals and preferences to optimise their health and well-being.

Approved providers must meet requirements (3) (a), (c) and (d) under **Standard 7 Human resources**, which specify that:

- (a) the workforce is planned to enable, and the number and mix of members of the workforce deployed enables, the delivery and management of safe and quality care and services.
- (b) the workforce is competent, and members of the workforce have the qualifications and knowledge to effectively perform their roles.
- (c) the workforce is recruited, trained, equipped, and supported to deliver the outcomes required by these standards.

Approved providers must meet requirements (3) (c)(iv), (d)(i) and (e) under **Standard 8 Organisational governance**, which stipulate that the organisation demonstrates:

- (c)(iv) effective organisation-wide governance systems relating to workforce governance, including the assignment of clear responsibilities and accountabilities.
- (d)(i) effective risk management systems and practices, including but not limited to managing high-impact or high-prevalence risks associated with the care of consumers.



- (e) where clinical care is provided — a clinical governance framework, including but not limited to the following: (i) antimicrobial stewardship; (ii) minimising the use of restraint; (iii) open disclosure.

Please refer to Part 6 of the Commission's [Guidance on provider responsibilities relating to governance](#) for more information on provider responsibilities with regard to the qualifications, skills and experience of staff members.

Regulating approved provider responsibilities

The Commission's role as the aged care regulator is to monitor, identify and respond to areas of risk to consumers and non-compliance by approved providers with their responsibilities under the aged care legislation, in accordance with the Commission's statutory functions and community expectations.

In regulating approved providers' workforce-related responsibilities, the Commission's focus, as always, will be on ensuring the delivery of safe and quality care to consumers. The on-site availability of RNs and the delivery of minimum direct care time in residential facilities are critical to the provision of quality and safe care, reducing the risk of harm to consumers. This is achieved by ensuring that qualified and experienced care staff (including clinical care staff) are always available to deliver required care, and to identify and address potential risks.

The Commission detects risks to consumers by using multiple sources of intelligence that enable real-time ongoing monitoring

of approved providers. Complaints about services, Residents' Experience Surveys and other consumer feedback provide important information about consumer concerns and experiences. The Commission also gathers intelligence through its monitoring, investigation and management of non-compliance, provider reporting (e.g. serious incident notifications, quality indicators, financial information, care minutes, 24/7 RN coverage), and information from the Department and other regulators.

Reporting by approved providers to the Department on care minutes and the 24/7 RN responsibilities allows for monitoring of compliance and facilitates payment of the associated Government 24/7 RN supplement. The reporting will, along with the other intelligence, assist the Commission to identify where there are risks to the delivery of safe and quality care.

There may be circumstances in which a facility experiences gaps in having an RN on-site and on duty at all times. The Commission will be most concerned where there is evidence of risk to consumers. This will be understood by monitoring the:

- volume and pattern of the reported gaps in coverage, such as when shifts are partially or not filled
- total care hours, type of staff coverage, and shifts (care minutes)
- number and care needs of consumers
- reasons for the reported gaps and the alternative clinical care arrangements in place
- patterns of serious incident notifications and assessments of approved providers' responses



- complaints about staffing and clinical care
- previous monitoring including findings from site visits
- the approved provider's history of non-compliance with the Quality Standards
- quality indicator data including on residential workforce turnover (available from 21 October 2023).

Where the risk assessment identifies serious risks to consumers, the Commission will:

- undertake performance assessment and monitoring of approved providers, including requests for further information, interviews, site visits, and re-accreditation audits under the Quality Standards; and
- respond to non-compliance, which may include engagement with approved providers on their response, further monitoring or cautioning of approved providers, directing an approved provider to take specific action/s, and/or taking enforcement action such as issuing a notice or imposing sanctions under the Commission Act.

Where a provider demonstrates that it is actively working to comply with its responsibilities, the regulatory response will be different from the action taken if a provider is unable to demonstrate a suitable response, or deliberately avoids compliance obligations and may be placing consumers at risk of harm.

In the case of the 24/7 RN responsibility, the Commission will consider the steps that a provider has taken to fulfil their responsibilities, including the efforts made to recruit/retain RNs as well as the clinical governance and clinical care arrangements in place at a facility to ensure that the clinical needs of consumers are met. Refer to the section on *Alternative clinical care arrangements* for details of the evidence that the Commission will consider as part of its risk-based and proportionate response to identified non-compliance where a provider is unable to recruit and retain staff, especially clinical staff.

In short, a provider that is non-compliant with a specific responsibility but can evidence its ongoing efforts to comply, its provision of safe and quality care to consumers at all times, and its effective management of risks to consumers, is unlikely to be subject to escalated enforcement action by the Commission in the absence of other concerns about compliance or performance.

Performance assessment and monitoring

Performance assessments at services may be conducted either as part of the Commission's routine monitoring, such as through re-accreditation audits, or in response to risks identified through the Commission's analysis of data and intelligence. In both cases, the Commission will assess and monitor the performance of approved providers against the Quality Standards, and have regard to the specific 24/7 RN and care minutes responsibilities.



The Commission will have particular regard to the Quality Standards that are applicable to the delivery of safe and effective clinical care and services, workforce planning and competency, and governance systems (including clinical governance frameworks). This means that the Commission's Quality Assessors will be particularly interested in providers' demonstrated compliance with the relevant requirements under Quality Standards 2, 3, 7 and 8.

Where non-compliance with the Quality Standards and/or care minutes and 24/7 RN responsibilities is identified, the Commission's response will be proportionate to the assessed level of risk and the potential consequences for consumers. The Commission may take administrative or enforceable compliance actions (see section on *Compliance and enforcement*). The Commission's focus will be on ensuring that consumers are receiving safe and quality care at all times.

Compliance and enforcement

Approved providers must demonstrate a willingness to comply with their responsibilities. Where a provider shows that it is actively working to comply with its responsibilities, the Commission will consider this, along with the level of risk posed by the non-compliance, in determining what action it will take. Where a provider has not demonstrated this, the Commission will respond in a way that is proportionate to the issues identified and risks posed to consumers. This may include the issuing:

- a **caution letter** to highlight the non-compliance and to remind the provider of their responsibilities.

- **directions** to a provider to take specified action to meet its responsibilities or revise a plan for continuous improvement.
- a **non-compliance notice** (NCN) advising the provider of the non-compliance and setting out the actions required to remedy the non-compliance.
- a **notice of requirement to agree to certain matters** (notice to agree) setting out the actions a provider is required to take to remedy the non-compliance.

Where there is significant and repeated non-compliance, and a provider's response is found to be insufficient and/or there are severe and immediate risks to consumers, the Commission will take escalated action such as the imposition of **sanctions**.

Sanctions can include restricting the payment of subsidies or suspending the approval of a provider to deliver aged care.

As a last resort, the Commission may take action to revoke approved provider status. The Commission's compliance decisions and actions will be published on the Commission's Non-compliance register and/or My Aged Care Non-Compliance Checker. Refer to the Commission's [Compliance and Enforcement Policy](#) for further information.

Workforce management and supply

The Commission understands that workforce shortages may affect a provider's ability to maintain an adequate number of staff to meet its workforce-related responsibilities, including the specific care minutes targets and 24/7 RN responsibility. As noted above, approved providers are expected to take all



reasonable steps to recruit and retain the skilled staff they require to deliver safe and quality care, and to be able to evidence this.

Alternative clinical care arrangements

There may be circumstances, either long or short term, where an approved provider is unable to ensure that it has an adequate number of appropriately skilled staff available to care for consumers. This may be because it cannot source RN coverage that meets the 24/7 responsibility or its clinical care minutes target. Critically, in this situation, the provider must take appropriate steps to ensure that the care needs, and particularly the clinical care needs, of consumers will be met. These steps need to ensure that the provider continues to deliver quality and safe care.

The steps that the provider takes will be dependent on the individual circumstances of the facility and will take into account the care needs of its consumers. It is unlikely that a single strategy or alternative clinical care arrangement will be a sufficient substitute, and facilities may need to implement a combination of strategies in order to mitigate the risks to consumer care and safety that can arise when an RN is not present or there are not sufficient clinically trained staff.

Alternative clinical care arrangements that providers may access include, but are not limited to:

- On-call arrangements, typically on-call clinical advisory or on-call attendance arrangements (this may include on-call agency arrangements and on-call ambulance arrangements).

- Supporting staff at the facility to obtain additional qualifications (such as enrolled nurses attaining higher qualifications, and care workers and assistants in nursing gaining medication competencies and advanced first-aid certification) to mitigate gaps between the scopes of practice of facility staff.
- Workforce planning and management to meet clinical care needs (such as scheduling RN shifts in accordance with the regular clinical care needs of consumers)
- Co-location with or proximity to healthcare facilities such as a hospital, where there are clinical escalation pathways in place to ensure that a consumer is transported directly to the hospital/clinic for further assessment and treatment as necessary where there is no RN on-site and on duty at the residential facility.

Approved providers will need to be able to evidence their alternative clinical care arrangements and describe how the care needs of consumers, including those requiring higher level and/or complex care, are met when an RN is not on-site and on duty at the facility. This should reflect a thorough understanding of the clinical needs of consumers at the facility at any point in time and the capability of the staff working each shift, and should encompass:

- when and how the alternative arrangements are activated in the absence of an on-site and on-duty RN
- how on-site staff at the residential facility will participate in and/or be supported by the alternative clinical care arrangements
- how any on-call clinicians are orientated to their on-call responsibilities



- whether on-call clinician(s) (e.g. RN, GP, Nurse Practitioner) are already familiar with consumers' conditions and how important current information about consumers' clinical care needs is communicated to on-call clinicians
- how on-call clinicians access consumers' clinical records remotely
- how clinical care monitoring, assessment, planning and review will occur without an RN on-site and on duty, including in relation to:
 - identifying and responding to changing clinical care needs of consumers and those requiring higher level clinical and/or complex care
 - risk management, including risk identification and mitigation strategies
 - incident management and emergency response
 - injury/falls management
 - complex wound care
 - pain management
 - palliative/end of life care
 - medication management requiring clinical assessment and monitoring, and
 - behaviour management.
- how the alternative clinical care arrangements will support on-site staff where clinical care is required to be physically delivered, such as the administration of controlled (Schedule 8) drugs, other high-risk medications such as anti-coagulant and insulin medication, and as required (PRN) medication.
- workforce training strategies including any training for existing staff on managing consumers' specialist medical equipment

and upskilling of care workers to gain medication competencies and advanced first-aid qualifications.

- the scope of practice of staff responsible for the clinical care, and the processes for delegation in the absence of an on-site RN. This should include escalation protocols and associated guidance.
- service agreements established with other clinical care providers or services in the local area and how these are used to support the delivery of clinical care. These may include local area outreach, registered nurses, general practitioners, ambulance and non-emergency transport services, palliative care outreach, wound specialists, allied health.

Approved providers should ensure that the alternative clinical care arrangements are documented in their clinical governance framework. The evidence must detail associated policies, procedures and supporting documentation, including clear protocols for how staff are made aware of and will reliably activate the arrangements as required. Providers should be able to evidence at any time how they ensure that the clinical care needs of consumers at their facility are met when an RN is not on-site or when there is a lack of clinically trained staff available.

Supporting approved providers

The Department and the Commission recognise that external pressures can present challenges to approved providers in attracting and retaining a suitably skilled and competent workforce, particularly in rural and remote areas. Providers will be supported to meet their workforce-related responsibilities through payment



of subsidy and supplements, engagement and education, specific program supports and, in certain cases, exemptions from the responsibility to have an RN on-site and on duty at all times. Different elements of this support will be provided by the Commission and the Department respectively.

Provider engagement and education

The Department has published resources to assist residential aged care providers to understand the care minutes and 24/7 RN responsibilities. These include a dedicated [web page](#) outlining the legislative requirements and information about the 24/7 RN [funding supplement](#) and a [Care Minutes and 24/7 Registered Nurse Responsibility Guide](#) containing additional information about these responsibilities and the Government programs available to support providers with workforce needs. The Department also held a [webinar](#) on 15 March 2023 for providers of facilities that meet the preliminary eligibility criteria (i.e. facilities with 30 or fewer operational beds that are located in [Modified Monash Model](#) (MMM) 5-7 areas) to provide information about the exemptions and the application process.

The Commission has extensive education and guidance materials to support providers' understanding of and compliance with the Quality Standards. This includes a dedicated [web page](#), with links to guidance, fact sheets, resources and online learning modules. The Commission will hold a webinar on 18 April to explain the approach to regulating the 24/7 RN responsibility in residential aged care.

The Commission may also, as part of its regulatory activities, engage with individual providers or groups of providers where it is identified that additional education and/or support is required.

Providers should consult the Commission's web resources on:

- [provider governance](#) – guidance on approved provider responsibilities in relation to governance to ensure visibility of risks and to inform robust decision-making about how a provider operates and ensures that it meets its responsibilities.
- [clinical governance](#) – a range of resources designed to help providers understand the key concepts of clinical governance and how to apply these concepts in their service. This includes a toolkit to assist providers to develop a clinical governance framework to fit their service.
- [workforce governance and management](#) – a fact sheet outlining the expectation that providers have appropriate and effective workforce governance and management processes to ensure the continuity of safe and quality care in anticipation of any external workforce pressures.

Workforce support programs and advisory services

To meet their legislative responsibilities, approved providers are expected to undertake comprehensive workforce planning as part of their governance systems to manage both short- and long-term workforce supply and to ensure the continuity of safe and quality care for consumers at all times.



The Government offers a number of workforce programs and advisory services that can assist approved providers to plan for immediate and future workforce needs. This includes:

- The [Governing for Reform in Aged Care](#) program being led by the Commission, which provides governing body members and executives with a tailored learning and development pathway to build the capability of approved providers with regard to leadership and governance.

The Department funds:

- The [Workforce Advisory Service](#) which offers independent and confidential advice to support approved providers to improve the capability and capacity of their workforces and human resource management practices (focusing on care-based workforce).
- The [Aged Care Transition to Practice Program](#) which provides RN and ENs who are new to aged care with training, mentoring and support.
- The [Rural Locum Assistance Program for Aged Care](#) which assists rural and regional approved providers affected by high staff turnover or sudden departure of personnel.
- [Aged Care Nursing and Allied Health Scholarships](#) which provide funding for a range of scholarship opportunities for nurses, personal care workers and allied health workers.

Where the Commission identifies concerns with an approved provider's management of workforce gaps and compliance with its responsibilities, it may refer that provider to the Department for assistance in accessing these programs.

Exemptions from the 24/7 RN responsibility

As part of its recommendation with respect to 24/7 RN care, the Royal Commission acknowledged the need to allow for exemptions to be granted to approved providers of residential care facilities in rural and remote areas where the approved provider is unable to recruit sufficient staff with the requisite skills to meet the 24/7 RN responsibility.

As set out in section 54-1A of [the Aged Care Amendment \(Implementing Care Reform\) Act 2022](#), the delegate of the Secretary of the Department may grant an exemption from the responsibility for **up to 12 months at a time from 1 July 2023** to an approved provider in relation to a residential facility subject to certain criteria being met.

General criteria

An exemption from the 24/7 RN responsibility can be granted only if the following requirements have been met:

- The approved provider has submitted a completed [application form](#) to the Department, including any additional information that may subsequently be sought; and
- The residential facility is located in a Modified Monash Model (MMM) 5, 6 or 7 area; and
- There are no more than 30 operational places at the residential facility on the day a decision is made by the Secretary, or the delegate; and



- The Secretary, or delegate, is satisfied that the approved provider has taken reasonable steps to ensure that the clinical care needs of consumers at the facility will be met at all times during the period for which the exemption is in force (see section on *Alternative clinical care arrangements* for examples of the types of arrangements that may suffice as “reasonable steps” under this criterion).

Other criteria

Before deciding whether to grant an exemption, the Secretary, or delegate, must also have regard to the following information:

- notices and sanctions imposed on the approved provider under the *Aged Care Quality and Safety Commission Act 2018* (Commission Act), and
- any information given to the Secretary by the Aged Care Quality and Safety Commissioner in accordance with section 56 of the Commission Act that is relevant to assessing whether the provider has taken reasonable steps to ensure that the clinical care needs of consumers at the facility will be met at all times during the exemption period.

The Commission and the Department may share information to support each agency’s administrative and regulatory functions as outlined in this Regulatory Bulletin.

Exemptions and provider obligations

The granting of an exemption from the 24/7 RN responsibility in respect of a residential facility **does not** release an approved provider from:

- (a) any of its other obligations under the Aged Care Act and relevant subordinate legislation, including the Aged Care Quality Standards; and
- (b) the reporting requirements that apply in respect of the 24/7 RN responsibility; and
- (c) the RN component of the care minutes responsibility commencing on 1 October 2023.

Regulating approved providers of exempt facilities

During the period of exemption, the Commission will undertake a risk-based program of targeted monitoring to assess approved providers against relevant requirements of the Quality Standards and consider the alternative clinical care arrangements which formed the basis on which an exemption was granted.

Where monitoring activities identify concerns that an exempt facility is not appropriately applying alternative clinical care arrangements, or a provider is not meeting its obligations, the Commission will share information about the exempt facility with the Department. This information will be considered by the Secretary’s delegate and may lead to the revocation of an exemption.



Role of the Department of Health and Aged Care

The Department plays a leading role in implementing the mandatory care time responsibilities including care minutes and 24/7 RN responsibilities.

The Department is responsible for the following:

- Regulating the 24/7 RN supplement, including ceasing payment of the supplement where providers do not meet the eligibility criteria for the supplement.
- Administering the receipt of care minutes reporting via Quarterly Financial Reports (QFR) and monthly 24/7 RN reports from providers.
- Verifying the accuracy of provider QFR and 24/7 RN reporting to support payment of the 24/7 RN supplement and enforcement of the requirements, and to ensure care minutes information published through the Star Ratings is accurate. This includes through:
 - developing an ongoing program of audits of provider reporting with regard to care minutes and 24/7 RN.
 - calculating the specific average per resident per day care minutes and RN minutes target for each residential aged care service and making this available to providers through the My Aged Care Service and Support Portal.
 - publishing quarterly information on My Aged Care on the delivery of care minutes in each residential aged care service through the staffing Star Rating to increase transparency for consumers.
- Continuing to engage with providers and consumers through My Aged Care resources and contact portals.
- Applying an exemption framework and ensuring that exemption arrangements support the intent of the 24/7 RN responsibility, which is to ensure that consumers living in residential facilities have access to clinical care when they need it.
- Providing regional stewardship and initiatives to build, train and support the aged care workforce, including facilitating providers' access to workforce support programs.
- Identifying any unintended consequences for consumers and the sector, and rectifying these issues via future policy adjustments.
- Further policy development including work to explore the feasibility of developing a model of aged care RN workforce shortages by region, and clinically appropriate alternative models of care to ensure safe and quality care is delivered when an RN is not available.



Definitions

A **registered nurse** (RN) is a person who is registered under the Health Practitioner Regulation National Law in the nursing profession as an RN. As regulated health professionals, RNs are responsible and accountable to the Nursing and Midwifery Board of Australia (NMBA). Together with NMBA standards, codes and guidelines, the national Registered nurse standards for practice should be evident in current practice.

An **enrolled nurse** (EN) is a person who provides nursing care under the direct or indirect supervision of an RN. An EN has completed the prescribed education preparation and demonstrates competence to practice under the National Law as an EN in Australia. ENs must comply with core registration standards and relevant professional codes and guidelines, including the codes of conduct and ethics, and the enrolled nurse standards for practice.

For the purposes of care minutes:

- a **personal care worker** (PCW) is an employee classified under the Aged Care Award 2010 or an equivalent enterprise agreement (EA) as an Aged Care employee Level 2 (Grade 1 PCW) to Aged Care employee Level 7 (Grade 5 PCW) (excluding Aged Care employee Level 6), and
- an **assistant in nursing** (AIN) or Nursing Assistant is an employee under the Nurses Award 2020.

PCWs and AINs work under the supervision and guidance of a nurse (RN/EN).

An RN is considered to be **on-site** when physically present at the residential facility. This includes all buildings, structures and surrounding grounds of the residential facility.

An on-site RN is considered to be **on duty** when they are working and can respond in person to the clinical care needs of consumers at the residential facility, as needed. This includes when the RN takes breaks during a continuous period of work, if prescribed by their employment conditions.

For the purposes of the 24/7 RN responsibility, a **residential facility** is:

- a building or complex of buildings, inclusive of their immediate surrounds, used for the purpose of delivering residential aged care.
- different from a residential care service, the entity under the Aged Care Act in respect of which aged care subsidy is paid.

In most cases, a residential facility will consist of one residential care service.

The following will also generally meet the definition of a single residential facility for the purposes of the 24/7 RN responsibility:

- **Co-located** services – where two or more residential care services belong to the same approved provider and operate out of a single residential facility. The building/s of the residential facility can be at a single address, or can be across neighbouring addresses that effectively form a single location.
- **Dual-purpose** facilities – where a residential aged care and overnight or day acute and/or sub-acute health care service are provided at the same campus by the same provider (such as at a state or territory government regional or rural health campus).

Note: A residential care service that operates through different residential facilities (or buildings) that are not geographically co-located in such a way to meet the ordinary meaning of a facility, must meet the 24/7 RN responsibility separately at each residential facility.



Operational places are places allocated in respect of a residential care service through which residential care is provided. This excludes provisionally allocated places, offline places and any places for which residential aged care subsidy is not payable.

The [Modified Monash Model \(MMM\)](#) is a measure of remoteness and population size used by the Department to determine whether a location is a city, regional, rural, remote, or very remote.

Approved providers can find the MMM category of their facility by typing the street address into the Department's health workforce locator tool at <https://www.health.gov.au/resources/apps-and-tools/health-workforce-locator/app> and selecting 2019 as the MMM classification filter.

Additional resources

The Commission has a range of resource materials available to support approved providers. These resources are published on our website, and include guidance documents, fact sheets, videos, educational workshops, and regular communication through the Quality Bulletin.

In addition, the Commission offers various education modules through the Aged Care Learning Information Solution (ALIS).

The following resources can be found on our website:

- [Compliance and Enforcement Policy](#)
- [Regulatory Strategy](#)
- [Guidance and resources for providers to support the Aged Care Quality Standards](#)

- [Regulatory Bulletin: RB 2019-04 responding to non-compliance with the Aged Care Quality Standards](#)
- [Guidance on provider responsibilities relating to governance](#)
- [Clinical governance resources](#)
- [Workforce governance and management fact sheet](#)
- [Governing for Reform in Aged Care](#)
- Stay up to date with Regulatory Bulletin releases by [subscribing to the Commission's newsletter](#).

The Department's website also offers a variety of resources to support approved providers, including those already mentioned in this document:

- [Care minutes and 24/7 RNs in residential aged care](#)
- [Care Minutes and 24/7 Registered Nurse Responsibility Guide](#)
- [24/7 RN exemption application form](#)
- [FAQs about the 24/7 RN exemption framework](#)
- [Webinar - 24/7 RN exemption process](#)
- [Aged Care Workforce](#)
- [Workforce Advisory Service](#)
- [Rural Locum Assistance Program \(Rural LAP\)](#)
- [Aged Care Transition to Practice Program](#)
- [Aged Care Nursing and Allied Health Scholarships](#)

Future resources will be made available through the [Commission's](#) and [Department's](#) websites.



Need to know more?

If you have any questions about the quality and safety of aged care services, contact the Commission's [Customer Contact Team](#).

Frequently Asked Questions

The Department has also published [FAQs about the 24/7 RN exemption framework](#) to assist providers who may be eligible for an exemption. These include general FAQs as well as FAQs in relation to exemption applications, the 24/7 RN funding supplement, reporting, compliance, workforce, and Star Ratings.

What happens if I do not have an RN on duty and on-site 24/7 from 1 July 2023, and I am not eligible for an exemption?

Approved providers are required to comply with the new responsibilities from 1 July 2023 in order to receive the 24/7 RN funding supplement. The supplement aims to support services with 60 residents or fewer per day on average to deliver 24/7 RN care.

The Commission will be aware of any providers that do not have an RN on-site and on duty 24/7 through their reporting to the Department. The Commission will consider this information alongside the other intelligence we hold about each of these providers.

The Commission will take a risk-based and proportionate approach to the regulation of provider responsibilities. The Commission will have regard to the ongoing attempts that a provider is making to recruit and retain RN staff, and the steps the provider is taking to meet the clinical care needs of consumers and ensure that quality and safe care is being delivered in the absence of an on-site RN.

Where the Commission is concerned that there may be unmanaged and significant risk to consumers, we will engage with and monitor the facility/provider. This could include seeking more information or undertaking a performance assessment.

Where non-compliance with the Quality Standards and/or 24/7 RN responsibilities is identified, the Commission's response will be based on the assessed level of risk and the potential consequences of the risk for consumers. If immediate and severe risk of harm is identified, the Commission will not hesitate to take enforcement action requiring the provider to urgently take all necessary steps to ensure that consumers are safe.

Where a provider has made sustained attempts to comply with the responsibility but is experiencing ongoing workforce shortages, the Commission will also advise the Department so that they can consider engagement through their workforce programs and system stewards, and use this information to inform policy development.

The Government has a range of strategies to improve current workforce shortages in the sector, including a commitment to fund the Fair Work Commission wage increase for workers, the prioritisation of visa applications from RNs, and training initiatives.

Additionally, the Department is undertaking work to explore the feasibility of developing a model of aged care RN workforce shortages by region, and clinically appropriate alternative models of care to ensure safe and quality care is delivered when an RN is not available. This work, combined with



information collected through providers' monthly 24/7 RN reporting, may be used to inform future exemption policy decisions and arrangements from 1 July 2024.

What will the Commission require as evidence of providers' RN recruitment activities?

In considering the attempts made by approved providers to recruit RN staff, the Commission will have regard to evidence of providers' recruitment activities. These may include copies of job advertisements, information about the media through which positions were advertised, their duration, and the outcomes of the assessment of any applications.

If I am eligible for an exemption, when can I apply?

Approved providers of eligible residential facilities can apply for an exemption from 3 April 2023. This is to ensure, wherever possible, that exemptions are in place ahead of the commencement of the responsibility on 1 July 2023. Information is available on the [Department's website](#).

How do providers of eligible facilities apply for an exemption?

Eligible providers can apply for an exemption from the 24/7 RN responsibility by submitting an application form to the Department. The [application form](#) is now available.

Residential facilities with 30 or fewer operational places that are located in an MMM 5, 6 or 7 area may be eligible for an exemption.

The Department invited all providers of facilities that may be eligible for an exemption to a [webinar](#), held on 15 March 2023, to find out more information about the exemption and the application process.

Providers seeking additional information should contact the Department at exemptions@health.gov.au.

Are providers that receive an exemption from the 24/7 RN responsibility also exempt from the RN component of the care minutes responsibility?

No. An exemption from the 24/7 RN responsibility in respect of a facility does not remove any of the approved provider's other obligations under the *Aged Care Act 1997* and the Aged Care Quality Standards, including the provider's obligations to meet the mandatory care minutes responsibility from 1 October 2023.

If I am granted an exemption, what happens when the 12-month exemption period expires and I am still unable to meet the 24/7 RN responsibility due to workforce shortages?

The Department is working on developing a model of areas of RN workforce constraint or shortage in aged care. This project may inform the Government's decision-making about exemptions from the 24/7 RN responsibility following the initial 12-month exemption period.

The initial scoping report for this project was completed in March 2023.



The Department is also working on a project in two parts to explore:

- alternative staff skill mixes for specialised residential aged care services and services co-located with a health service; and
- alternative arrangements for the delivery of safe and quality care in residential facilities for times when an RN is not on-site and on duty as a result of workforce shortages.

The final report on this project is expected to be delivered in August 2023.

Why is the exemption limited to facilities with 30 or fewer beds that are located in MMM 5-7 areas?

The approach to exemptions seeks to balance the need to increase RN coverage to address the understaffing in aged care as highlighted by the Royal Commission, with the need to acknowledge that workforce shortages in certain areas will mean that some facilities may not be able to meet the 24/7 RN responsibility.

The preliminary exemption criteria were established on the basis of available data from the 2020 Aged Care Workforce Census which indicated that smaller facilities have lower RN coverage than larger facilities, and that facilities in rural and remote areas have lower RN coverage.

Importantly, residential aged care services that have an exemption from the 24/7 RN responsibility are still required to ensure that they have in place satisfactory alternative arrangements to meet the clinical care needs of residents.

What are the reporting arrangements for the 24/7 RN responsibility? Do I have to submit reports if I have an exemption?

From 1 July 2023, all approved providers must submit a monthly report to the Department on their compliance with the 24/7 RN responsibility, even where they have been granted an exemption in relation to a residential facility.

Approved providers will need to report the following:

- every period of 30 minutes or more that an RN was not on-site and/or not on duty at each residential facility for those days in the month when the facility was used for the purpose of delivering residential aged care, and
- the reason an RN was not on-site and/or on duty for each such period, and
- the alternative arrangements made to ensure that the clinical care needs of consumers were met while an RN was not on-site and/or on duty (or that alternative arrangements were not made) for each such period.

This information will be used to determine payment of the 24/7 RN funding supplement, to inform the Commission's regulatory activities and to support policy development including policy with regard to exemptions and alternative care arrangements in future.

The Department will provide the sector with information and guidance on the reporting obligations before 1 July 2023.



How will my compliance with the care minutes and 24/7 RN responsibilities affect my star rating?

Star Ratings are made up of an overall quality rating and 4 sub-category ratings, including:

- Quality measures
- Compliance
- Consumer experience
- Staffing (based on care minutes derived from reporting under the QFR).

Like all sub-categories, Staffing is displayed as a rating out of 5 stars. This provides a ready means of comparing residential aged care services based on the amount of care they deliver. Failure to submit a QFR, or failure to submit by the due date, will result in a 1 Star Staffing Rating and will consequently affect the service's overall Star Rating.

The extent to which a service meets its care minutes targets will also affect the Staffing star rating.

The Department is considering options for incorporating the 24/7 RN responsibility into the Star Ratings, and will provide more information when it is available.

Star Ratings are published on My Aged Care through the [Find a provider](#) menu option. For more information, including the rules for the Staffing Rating and which Commission decisions affect the Compliance rating, see the Department's [Star Ratings Provider Manual](#).



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