

## Regulation of workforce-related responsibilities including 24/7 on site registered nurse and care minutes webinar

This document responds to participant questions at the webinar held on 18 April 2023. The information provided is current as at 17 May 2023.

For additional information including on reporting, supplements and care minutes please refer to [Frequently asked questions - exemption framework for the 24/7 registered nurse responsibility](#).

Question	Response
<b>REGISTERED NURSE (RN) COVERAGE AND COMPLIANCE</b>	
<p>We are a small rural health service with a 40-bed public sector residential aged care facility (RACF). Our health service has a supernumerary after-hours coordinator on campus at all times out of hours. While we currently have good RN coverage, would this be acceptable in the event of being unable to access RN in the facility at times? Due to the size of the service, all after-hours coordinators have a good knowledge of the RACF and its residents.</p>	<p>A service with 40 operational beds will not be eligible to apply for 24/7 RN exemption and will require a minimum of one RN onsite 24 hours per day.</p> <p>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. However, the Aged Care Quality and Safety Commission (Commission) recognises 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. As a result, there may be circumstances in which a facility experiences gaps in having an RN on-site and on duty. The Commission will expect that an approved provider has appropriate alternative clinical care arrangements in place in these circumstances, and that consumers are not at risk</p> <p>A supernumerary after-hours coordinator would be an acceptable strategy to manage clinical care needs if the service is unable to always access a RN in the facility, if:</p> <ul style="list-style-type: none"> <li>• the after-hours coordinator is a suitably qualified RN, and</li> <li>• their primary role allows them the time to meet the needs of the residents, and</li> <li>• they are able to attend a resident if indicated, and</li> <li>• they are readily accessible by enrolled nursing staff and care workers, and</li> <li>• there is an effective process in place for communication between onsite staff and the after-hours coordinator including the documentation and handover of the clinical event.</li> </ul>

<p>Dr Wroth mentioned day staff being informed of what happens. Is the assumption the exemptions are for nights only? Is there consideration of regional/remote services not being able to get weekend RN coverage?</p>	<p>Dr Wroth was referencing when a resident requires clinical care at night and there is not an RN on site (and therefore an alternative arrangement is utilised). She spoke about needing processes to ensure that day staff are aware of what occurred and any follow up actions etc.</p> <p>Exemptions are not intended for nights only, although a service must demonstrate for any periods where there is not an RN on site and on duty that they have appropriate alternative clinical care arrangements in place.</p> <p>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. However, the Aged Care Quality and Safety Commission (Commission) recognises 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. As a result, there may be circumstances in which a facility experiences gaps in having an RN on-site and on duty. The Commission will expect that an approved provider has appropriate alternative clinical care arrangements in place in these circumstances, and that consumers are not at risk.</p>
<p>Given it is not disputed that there are insufficient RNs to meet the requirement from 1 July 2023 for all providers, will the Commission adopt a service improvement approach to help them achieve this goal?</p>	<p>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.</p> <p>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.</p> <p>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. However, 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.</p>

	<p>Where providers are not meeting the 24/7 RN responsibility, it is unlikely to be subject to escalated enforcement action by the Commission in the absence of other concerns about compliance or performance if they can provide evidence including:</p> <ul style="list-style-type: none"> <li>• their ongoing efforts to comply</li> <li>• the provision of safe and quality care to consumers at all times, and</li> <li>• their effective management of risks to consumers.</li> </ul>
<p>In the <a href="#">regulatory bulletin</a>, you outline advanced first aid certification as an alternative care arrangement. Can you please expand upon this, e.g., what qualification specifically, and what skills are required as part of this, to manage the risk to safety and wellbeing of residents in the absence of a RN.</p>	<p>An advanced first aid certificate is an example of supporting enrolled nurses and care workers at the facility to obtain additional qualifications as part of the alternative clinical care arrangement. These skills could then be used to provide immediate first aid while waiting for further on-call clinical support to arrive at the RACF, and help fill a potential gap in on-site capability.</p>
<p>Does an RN doing a sleepover on site count as having an RN on site?</p>	<p>Having an RN doing a sleepover would not meet the requirements on being on-site and <b>on-duty</b>, as required by the legislation.</p> <p>However, an RN doing a sleepover onsite may be an acceptable alternative clinical care arrangement. This will require the RN to be available for advice and to attend when the clinical needs of residents require RN care. This arrangement will need to be supported by clear guidelines for staff regarding when the RN is woken and reflected in the RN role description. Providers will need to consider rostering of the RN in view of sleep requirements.</p>
<p>Can we use a care manager who is an RN to step in and act as RN in the event of sickness?</p> <p>If an RN is sick for a shift and a replacement is unable to be found, does it suffice if a Care Manager or Facility Manager who are RNs are onsite supervising an EN?</p> <p>How is clinical care being met without a registered nurse being available?</p>	<p>A care manager who is a RN can be used to act as a RN in the event of sickness if they are on-site and on duty. Expectations should be included in the position description, and it should be clear on the occasions that they cover the RN role that they are not simply continuing their usual duties as care manager.</p> <p>A RN can supervise an enrolled nurse and will take on the responsibility of the care delivered by the enrolled nurse. The level of supervision required will be dependent on the experience, capability and skill of the enrolled nurse and the supervision arrangements in place for the delegated clinical activities.</p>

	<p>The service will need to demonstrate that they have adequate alternative clinical care arrangements in place when a RN is not on-site and on-duty.</p>
<p>Whether we can continue to provide safe and quality care will be defined as our adherence to quality measures which are designed with the staffing requirements in mind. Would you not agree that if we can't meet staffing requirements then we are unlikely to be meeting continued safety exemption clause?</p>	<p>Detail of how clinical care is delivered and overseen will need to be planned and implemented with quality and safety of that care in mind. Contingency and alternatives must be considered in the individual service context.</p> <p>All approved providers must comply with existing responsibilities under the aged care legislation, including the <a href="#">Aged Care Quality Standards</a>. The Standards include the requirement to deliver safe and quality care to consumers, and to maintain adequate number of appropriate skilled staff to ensure consumers' care needs are met.</p> <p>In instances where approved providers are unable to maintain an adequate number of sufficiently skilled staff to meet the 24/7 RN responsibility, the Commission will consider the alternative clinical care arrangements providers have in place for when an RN is not on site and on duty, and if they are ensuring continuity of safe and quality care for consumers at all times.</p>
<p>In the <a href="#">Commissioner's letter of 14 April</a>, you still say it is unlikely (and again today) rather than you won't be the subject of escalated enforcement even if you meet all the requirements. - why won't you assure us in writing that if you meet the other requirements then we will be monitored but there will be no escalation unless the residents are considered to be at risk. This is what you just said on the webinar so why not provide in writing. Extract "In short, a provider that is non-compliant with a specific responsibility but can evidence its ongoing efforts to comply, is providing safe and quality care to consumers, and is effectively managing 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."</p>	<p>It is important to note that it is impossible to predict all circumstances, and services are assessed on a case-by-case basis. As such, the outcomes of these assessments will not all be the same.</p> <p>However, the Commission released a <a href="#">Regulatory Bulletin</a> on 14 April in which this reference to escalated enforcement action is detailed. In part, the Bulletin states:</p> <p><i>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.</i></p> <p>The Bulletin also includes the extract in your question:</p> <p><i>...a provider that is non-compliant with a specific responsibility but can evidence its ongoing efforts</i></p>

	<p><i>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</i></p> <p>Additionally, the Commissioner made a statement on the Commission’s website on 24 April 2023: <a href="#">A fair and sensible approach to regulating 24/7 RN and care minutes responsibilities</a>. Included in this statement is:</p> <p><i>If a provider is struggling to find sufficient RNs to cover all shifts but is continuing to work on this, and is demonstrably delivering safe, quality care around the clock that is meeting residents’ needs and effectively managing risks, then the Commission is very unlikely to take compliance enforcement action but will instead continue to monitor the provider’s performance.</i></p>
<p>If a Clinical Manager or RN Service Manager is onsite, can we still use an endorsed enrolled nurse if unable to fill the shift with an RN?</p>	<p>A RN can supervise an enrolled nurse and will take on the responsibility of the care delivered by the enrolled nurse. The level of supervision required will be dependent on the experience, capability and skill of the enrolled nurse and the supervision arrangements in place for the delegated clinical activities.</p> <p>However, this will form part of the alternative clinical care arrangements, rather than fulfilling the requirement to have an RN onsite and <b>on-duty</b>. Therefore, the service will still need to demonstrate that they have adequate alternative clinical care arrangements in place when a RN is not onsite and on-duty.</p>
<p><b>CARE MINUTES</b></p>	
<p>A small error in the slides RE Care Minutes funding. Is the additional \$1.9bn over two years starting in 2023-24 or 2024-25 (slides said 2024-24)?</p>	<p>This has been corrected. The updated slides are available on our <a href="#">website</a>.</p>
<p>Further clarification on Care minutes: Will the Commission hold an information forum for the mandate for care minutes from October 1, 2023?</p>	<p>The Commission is reviewing its planned webinar topics for the remainder of the year. We note the interest in having a webinar on care minutes.</p> <p>The Commission will continue to provide information and we encourage providers and consumers to</p>

	<p>regularly visit our dedicated website page - <a href="#">Commission page 24/7-registered-nurse-cover-and-care-minutes</a></p> <p>The Department of Health and Aged Care has also published information about the Care Minutes: <a href="#">Department of Health and Aged Care - care-minutes-and-247-registered-nurse-requirements-guide.</a></p>
<b>EXEMPTIONS</b>	
<p>How long will exemptions be in play?</p>	<p>Currently, the delegate of the Secretary of the Department of Health and Aged care may grant an exemption from the responsibility for <b>up to 12 months at a time from 1 July 2023</b> to an approved provider in relation to a residential aged care facility.</p>
<b>MMM LOCATIONS</b>	
<p>Over two thirds of providers in MMM 5-7 are not eligible to apply for an exemption because of the 30 beds or less requirement. All these providers experience real competitive disadvantage in the ability to attract RNs and a range of other staff categories. How will the Commission recognise the additional burden that these providers experience?</p>	<p>Providers will be supported to meet their workforce-related responsibilities through payment of subsidy and supplements, engagement and education, and specific program supports.</p> <p>The Commission, in regulating workforce responsibilities will, in the case of the 24/7 RN responsibility, consider the steps that an individual 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.</p> <p>The Commission recognises that, particularly in rural and remote areas, external pressures can present challenges to approved providers in attracting and retaining a suitably skilled and competent workforce. Included in the support for providers, the Department funds the <a href="#">Rural Locum Assistance Program for Aged Care</a> which assists rural and regional approved providers affected by high staff turnover or sudden departure of personnel.</p>