



Aged Care Legislation Amendment (Care Minutes Responsibilities) Principles 2023

I, Anika Wells, Minister for Aged Care, make the following principles.

Dated 6 September 2023

Anika Wells
Minister for Aged Care

Contents

1	Name.....	1
2	Commencement	1
3	Authority.....	1
4	Schedules.....	1
Schedule 1—Amendments		2
	<i>Information Principles 2014</i>	2
	<i>Quality of Care Principles 2014</i>	3

1 Name

This instrument is the *Aged Care Legislation Amendment (Care Minutes Responsibilities) Principles 2023*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The day after this instrument is registered.	12 September 2023

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *Aged Care Act 1997*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Information Principles 2014

1 At the end of Part 3

Add:

8B Information about residential aged care services that must be made publicly available—direct care responsibilities

- (1) For the purposes of subsection 86-10(1) of the Act, the Secretary must make publicly available the following information in relation to a residential care service, for a quarter of a financial year for the approved provider of the service:
 - (a) the required combined staff average amount of direct care per care recipient per day in respect of the service for the quarter under subsection 9(1) of the *Quality of Care Principles 2014*;
 - (b) the required registered nurse average amount of direct care per care recipient per day in respect of the service for the quarter under subsection 9(2) of the *Quality of Care Principles 2014*;
 - (c) the average amount of direct care provided through the service by direct care staff members of the provider per counted care recipient per day during the quarter;
 - (d) the average amount of direct care provided through the service by registered nurse staff members of the provider per counted care recipient per day during the quarter.

When information must be made publicly available

- (2) The Secretary must make information mentioned in paragraphs (1)(a) and (b) publicly available as soon as practicable on or after the calculation day for the quarter.

Definitions

- (3) In this section:

calculation day has the same meaning as in the *Quality of Care Principles 2014*.

counted care recipient has the same meaning as in the *Quality of Care Principles 2014*.

direct care has the same meaning as in the *Quality of Care Principles 2014*.

direct care staff member has the same meaning as in the *Quality of Care Principles 2014*.

quarter, of a financial year for an approved provider, has the same meaning as in the *Accountability Principles 2014*.

registered nurse staff member has the same meaning as in the *Quality of Care Principles 2014*.

Quality of Care Principles 2014

2 Section 4

Insert:

calculation day, for a quarter, means the 15th day of the calendar month before the calendar month in which the quarter begins.

counted care recipient has the meaning given by subsection 10(4).

day of recognised residential care has the meaning given by subsection 9(4).

direct care means care provided to an individual care recipient that is of a kind described in item 1.11, 2.1, 2.3, 2.4, 2.5, 2.7, 2.8, 2.9 or 3.8 of Schedule 1 (other than the planning or delivery of activities to a group of care recipients).

direct care staff member means a staff member of an approved provider who is a registered nurse, enrolled nurse, nursing assistant or personal care worker.

enrolled nurse means a person who is registered under the National Law in the nursing profession as an enrolled nurse.

National Law has the same meaning as in the *Health Insurance Act 1973*.

nursing assistant means a person:

- (a) who is not a registered nurse or enrolled nurse; and
- (b) who works under the direct control and supervision of a registered nurse; and
- (c) whose work is solely to assist a registered nurse or enrolled nurse in the provision of nursing care.

quarter, of a financial year for an approved provider, has the same meaning as in the *Accountability Principles 2014*.

reference period, for a quarter, has the meaning given by subsection 9(5).

registered nurse staff member means a staff member of an approved provider who is a registered nurse.

3 At the end of Part 2

Add:

9 What are the required amounts of direct care?

Required combined staff average amount of direct care

- (1) The required combined staff average amount of direct care per care recipient per day in respect of a residential care service for a quarter of a financial year for the approved provider of the service is worked out by:
 - (a) starting with the sum of the combined staff daily amounts for all of the days of recognised residential care provided in respect of care recipients through the residential care service during the reference period for the quarter; and

- (b) dividing that sum by the total number of days of recognised residential care provided in respect of care recipients through the residential care service during the reference period for the quarter; and
- (c) rounding the result of that division to 2 decimal places (rounding up if the third decimal place is 5 or more).

Required registered nurse average amount of direct care

- (2) The required registered nurse average amount of direct care per care recipient per day in respect of the residential care service for the quarter is worked out by:
 - (a) starting with the sum of the registered nurse daily amounts for all of the days of recognised residential care provided in respect of care recipients through the residential care service during the reference period for the quarter; and
 - (b) dividing that sum by the total number of days of recognised residential care provided in respect of care recipients through the residential care service during the reference period for the quarter; and
 - (c) rounding the result of that division to 2 decimal places (rounding up if the third decimal place is 5 or more).

Daily amounts

- (3) The following table sets out, for a day of recognised residential care provided in respect of a care recipient through a residential care service:
 - (a) the **combined staff daily amount** for the day for the care recipient; and
 - (b) the **registered nurse daily amount** for the day for the care recipient.

Daily amounts			
Item	Column 1 For a care recipient classified as ...	Column 2 the combined staff daily amount is ... (minutes)	Column 3 and the registered nurse daily amount is ... (minutes)
1	Class 1	317	57
2	Class 2	110	30
3	Class 3	143	32
4	Class 4	115	28
5	Class 5	157	39
6	Class 6	152	34
7	Class 7	186	36
8	Class 8	200	38
9	Class 9	202	46
10	Class 10	282	56
11	Class 11	274	41
12	Class 12	269	42
13	Class 13	317	57
14	Respite Class 1	120	31
15	Respite Class 2	165	36
16	Respite Class 3	273	48

Day of recognised residential care

- (4) A **day of recognised residential care** is provided in respect of a care recipient through a residential care service if:
- (a) residential care is provided through the service to the care recipient during the day; and
 - (b) a classification of the care recipient under Part 2.4A of the Act is in effect on the day.

Reference period

- (5) The **reference period** for a quarter is the period of 3 months beginning on the day that is 4 months before the first day of the quarter.

Information to be disregarded for calculations

- (6) For the purposes of a calculation under this section for a quarter:
- (a) information about a person entering or exiting a residential care service during the reference period for the quarter is to be disregarded if it is given to the Secretary on or after the calculation day for the quarter; and
 - (b) a change in a person's classification, or a reclassification of the person, that is made on or after the calculation day for the quarter but takes effect before the calculation day is to be disregarded.

Calculation if no days of recognised residential care provided during reference period

- (7) If no days of recognised residential care were provided in respect of care recipients through a residential care service during the reference period for a quarter, the result of the calculations in subsections (1) and (2) in relation to the quarter is taken to be zero minutes per care recipient per day.

Note: This subsection is to avoid an undefined result when dividing by zero.

10 What are the responsibilities of approved providers in relation to the required amounts of direct care?

- (1) This section sets out responsibilities that apply to an approved provider of a residential care service in relation to a quarter of a financial year for the provider beginning on or after 1 October 2023.

Responsibility—direct care provided by direct care staff members

- (2) The provider must ensure that the average amount of direct care provided through the service by direct care staff members of the provider per counted care recipient per day is at least the required combined staff average amount of direct care per care recipient per day calculated under subsection 9(1) in respect of the service for the quarter.

Note: Direct care staff members of the provider include registered nurse staff members of the provider (see the definition of **direct care staff member** in section 4).

Responsibility—direct care provided by registered nurse staff members

- (3) The approved provider must ensure that the average amount of direct care provided through the service by registered nurse staff members of the provider

per counted care recipient per day is at least the required registered nurse average amount of direct care per care recipient per day calculated under subsection 9(2) in respect of the service for the quarter.

Counted care recipients

- (4) A care recipient receiving care through a residential care service on a day is a **counted care recipient** on the day unless:
- (a) the care recipient is on extended hospital leave on the day; and
 - (b) the day is on or after the 29th day of the recipient's leave.

4 Subsection 15FC(1) (note)

Omit "Health Practitioner Regulation".