

Aged Care Rules Consultation Draft – Provider Obligations

Dementia Australia Submission – March 2025

Thank you for the opportunity to provide feedback on the Consultation Draft of the Aged Care Rules related to Provider Obligations.

Recommendations

Dementia Australia has three key recommendations for your consideration. If implemented these recommendations will give fuller expression to the human rights basis of the primary legislation:

- 1) Include the requirement for aged care workers to be educated in dementia care explicitly in the Rules.
- 2) Outline a procedure for circumstances where consent to restrictive practices is not given.
- 3) Define an emergency in the context of restrictive practices, specify that non-consent does not automatically constitute an emergency, and outline the emergency circumstances where restrictive practices can be used without consent, authorisation or outside a behaviour support plan.

Dementia education

The strengthened Aged Care Quality Standards include a requirement under the Action 2.9.6 for providers to ensure that all aged care workers regularly receive competency-based training in relation to core matters including caring for individuals living with dementia.

While the Quality Standards are included in the draft Rules Part 6, this extends only to Outcome Statements. As such, there is no explicit requirement in the Rules for aged care workers to receive training in dementia care.

A majority of aged care residents are living with dementia, and dementia education of the workforce is widely recognised as essential for the delivery of quality care.¹ As such, we

¹ Dementia Australia (2025)
Care, Dignity and Respect: Volume 4A.

recommend that the requirement for dementia education of the workforce under Quality Standard 2.9.6 be explicit in the Rules, to ensure that this obligation cannot be overlooked.

Safeguarding consent to restrictive practices

The Rules require that the informed consent of the individual, or their substitute decision-maker for restrictive practices, must be given for a restrictive practice to be used. However, the requirements do not outline a procedure for situations where consent to a restrictive practice is not provided.

In addition, the Rules do not appear to define an emergency for the purposes of Section 162-15, that is, the circumstances in which consent and other requirements for the use of restrictive practices are suspended.

Dementia Australia is concerned that non-consent to restrictive practices could be interpreted by providers as an emergency and therefore result in the overuse or inappropriate use of restrictive practices or risk coercion of the individual.

As a safeguard, we recommend that the circumstances that constitute an emergency be defined and that a course of action be outlined where consent to restrictive practices is not given and an emergency does not exist.

Incident reporting

Dementia Australia welcomes the inclusion of clauses under Section 166-520 in the Rules which require that an individual's cognitive impairment must not be considered as preventing the individual from being caused, or reducing, physical or psychological injury in the case of a reportable incident.

This is an important step forward in addressing abuse and mistreatment of people living with dementia and aligns with the human rights basis of the primary legislation.

Worker Registration Scheme

Dementia Australia welcomes the prescribing of a Worker Registration Scheme for aged care and will provide comment separately to the consultation on this Scheme.

Access to care, and security of tenure

While not directly addressed in this Rules consultation, Dementia Australia notes that access to residential aged care places and security of tenure are critical issues for people living with dementia, especially those with changed behaviour.

We note that there is broader discussion about the impact of aged care providers not accepting people living with dementia and changed behaviours into care or not maintaining their tenure.

These impacts are noticeable at State and Territory level including in data showing the number of people who do not require acute care who are residing in hospital awaiting placement in residential aged care.²

It is also being felt acutely where people living with dementia and their families and carers cannot obtain access to residential care in a timely manner or in their own communities.

We consider it essential that the Rules address access and security of tenure issues, including a requirement that an individual not be discharged to hospital for acute care without a transition plan for assured return to appropriate residential care.

We would be pleased to have further discussions about these critical issues. Dr Kaele Stokes, Executive Director Services, Advocacy and Research, can be contacted on



² SA Health (2025) **Residential Aged Care Facility Waiting Times.**