



Palliative Care Australia
Matters of life and death

Draft Aged Care Act Rules

Provider obligations

Submission to the Department of Health and Aged Care
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1. About Palliative Care Australia

Palliative Care Australia (PCA) is the national peak advocacy body for palliative care. PCA represents all those who work towards high-quality palliative care for all Australians who need it. Working closely with consumers, our Member Organisations, national health stakeholders, and the palliative care workforce, PCA aims to improve access to and promote palliative and end of life care.

2. Summary

PCA welcomes publication of draft Aged Care Act Rules about aged care provider obligations. PCA appreciates the opportunity to provide advice to the Department of Health and Aged Care about these draft Rules.

This Chapter of the draft Rules sets out obligations on funded aged care providers, and is therefore fundamental to the operation of the new aged care regulatory framework which commences from July 2025.

PCA's comments in this brief submission aim to ensure that the draft Rules operationalise the right to equitable access to palliative care and end-of-life care. This new right is set out in the new Aged Care Act and applies to all people using or seeking Commonwealth-funded aged care services.

In this brief submission, PCA:

1. Welcomes the publication of draft provider obligations related to the strengthened Aged Care Quality Standards.
2. Recommends the Rules include additional detail about two obligations, namely what should be included in quality improvement plans (at Part 4, Division 2) and what constitutes the “appropriate qualifications and skills” of aged care professionals / workers (at Part 6, Division 1, Subdivision C). PCA recommends palliative care and end-of-life care considerations should be addressed in each of these areas, given these are core competencies in aged care. Neither the Act, nor the draft Rules, nor program operational guidance, provide sufficient clarity about required qualifications, or essential areas for skills development, across the aged care workforce (for example in palliative care and dementia care, as the Aged Care Royal Commission Recommendation 80 proposed be ensured via mandatory training).
3. Recommends swift publication of Part 8, Supporters, as the introduction of the new supported decision-making approach is a significant reform to aged care which will require substantial targeted communication and education for providers, older people and their supporters, family and carers – including prior to commencement of the new regulatory framework from 1 July 2025.

3. Issues

3.1. Strengthened Aged Care Quality Standards

PCA welcomes publication of draft provider obligations related to the operation of the strengthened Aged Care Quality Standards, including:

- Confirmation that *all* registered aged care providers are required to “have practices in place to demonstrate” that they, and their staff, are acting compatibly with the rights and principles set out in the new Aged Care Act’s Statement of Rights. This includes the right to equitable access to palliative care and end-of-life care for all people using or seeking Commonwealth aged care, when required. (See Part 6, Division 1 and 2).
- Confirmation that *Standard 5, Clinical Care*, applies to all providers offering nursing and/or transition care, and to residential care providers. Appropriately, this includes the requirements set out at Standard 5.7, Palliative care and end of life Care.
- Confirmation that care management providers must meet the Clinical Governance requirements at 5.1 of the Clinical Care Standard. This is an important minimum expectation, given that care managers are responsible for preparing, reviewing and updating care and services plans in discussion with older people – and this will routinely include coordinating the variety of clinical and functional supports that people, including those with life-limiting illnesses, require – and ensuring a timely response to changing needs.

PCA notes that a palliative approach to aged care is relevant to *all* aged care providers, regardless of registration category – since people with life-limiting illnesses use aged care services of all types including entry-level and lower intensity care and supports. An understanding of palliative care and end-of-life care requirements therefore supports individualised care planning, continual assessment of changing needs and responsive delivery of care and supports (consistent with the intent of strengthened Aged Care Quality Standards 1 to 3, as well as Clinical Standard 5). While providers of clinical care have particular responsibilities for provision of palliative and end-of-life care, these considerations are also relevant to providers of direct personal and care supports in the home or community.

In *implementing* the provider obligation Rules and the new Quality Standards, it will be important to recognise the need for sustained training and capacity building in a palliative approach, across all categories of registered aged care providers. While providers of clinical (nursing and

transition) care have particular responsibility for quality palliative care provision, this is a core area for skill development for all people working in aged care.

PCA notes that while care management providers are not obligated to meet Standard 5.7, *Palliative and end of life care*, a sound understanding of these requirements will be important if care managers are to effectively support planning and coordination of high quality clinical and functional palliative care and end-of-life care supports.

3.2. Continuous improvement plans and worker qualifications

PCA recommends additional brief detail be provided in the Rules about:

- What matters must be addressed in continuous improvement plans, and requirements for these to be published or shared.
- What constitutes the “appropriate qualifications, skills or experience” of aged care workers (noting that understanding of how to implement a palliative approach is a core skill in aged care).

Chapter 4, Part 4, Division 2 sets out the requirement for providers of personal and care support, nursing and transition care, and residential care, to have a continuous improvement plan. However, the draft Rules provide no detail about what areas this plan could cover, how quality improvement priorities are to be identified, preferred format, or how this plan should be used to improve quality. This information need not be prescriptive; for example if it is intended that the quality improvement plan relate to either the minimum expectations of quality care set out in the Aged Care Quality Standards and/or the components of high quality care set out in the Aged Care Act, this could be specified in the Rules. Nor do the Rules provide details about how the continuous improvement plan should be stored, or published, or whether it must be shared on request with older people accessing services from the provider or their supporters. The only detail provided about required use of the quality improvement plan is that information about improvements against the plan should be shared with the provider’s Quality Care Advisory Body. These issues could appropriately be addressed elsewhere, for example in guidance material published by the Aged Care Quality and Safety Commission, however in that case the Rules should then include a reference to where this information can be found.

Similarly, Part 6, Division 1, Subdivision C (152-35) sets out that aged care workers must have “appropriate qualifications, skills or experience to provide the funded aged care services”. This enacts the requirement in the Act, at 152c, that aged care workers must meet any “qualification or training requirements prescribed by the Rules”. However, neither the Act nor the draft Rules provide clarity about required qualifications, or essential areas for skills development across the aged care workforce (for example in palliative care and dementia care, as Aged Care Royal Commission Recommendation 80 proposed be ensured via mandatory training). Nor do the draft

Rules address profession-specific requirements (such as would apply for personal carer workers, and for nursing or allied health professionals). As well as being important to provider obligations, clarity about these requirements supports professionalisation and career development for people working in aged care, particularly for personal care workers.¹ More specifically, the draft Rules are not explicit about the skills, qualifications or experience required to provide multidisciplinary palliative approach in aged care. If the Rules cannot be more specific about these matters, they should specify where definitive information can be found, at minimum by referring to the relevant training expectations set out in the strengthened Aged Care Quality Standards.

PCA supports the intent of draft Rules that aim to provide greater consistency in worker screening requirements across aged care and disability services. This is one appropriate way to support greater long-term worker and workforce flexibility to provide care, particularly personal care services, across the care economy.

3.3. Supporters

PCA notes that this Chapter's Rules about Supporters (Section 8) are yet to be published. While we are supportive of the relevant provisions in the new Aged Care Act, PCA notes that the introduction of the new supported decision-making framework is a significant reform to aged care. The Rules should provide clarity about potential interactions between new provisions for aged care supporters, and existing state and territory legislation related to medical treatment decision-making, advance care planning, and (depending on jurisdiction) substitute and/or supported decision-making.

PCA looks forward to publication of Section 8 allowing time for comment and advice, noting the short time-frame available ahead of introduction of the supported decision-making framework from July 2025. Successful introduction of a new supported decision-making approach in aged care will require targeted communication and education including with providers, and older people and their supporters, families and carers – both ahead of and during implementation of the new aged care regulatory framework.

4. Concluding remarks

PCA looks forward to publication of the remaining draft Rules, ahead of commencement of the requirements of the new Aged Care Act from 1 July 2025. We would glad to provide further detail about any aspect of our submission.

¹ National Aged Care Alliance, [Key propositions for career development and pathways for the aged care workforce](#), December 2024.