

EXPLANATORY STATEMENT

Issued at the authority of the Minister for Aged Care

Aged Care Act 1997

Aged Care Legislation Amendment (Quality Indicator Program) Principles 2024

Purpose and operation

The purpose of the *Aged Care Legislation Amendment (Quality Indicator Program) Principles 2024* (Instrument) is to expand the National Aged Care Mandatory Quality Indicator Program (QI Program) by mandating quarterly reporting by approved providers of residential aged care on additional quality indicators from 1 April 2025 across:

- enrolled nursing
- allied health
- lifestyle officers.

The Instrument achieves this by amending the Accountability Principles 2014 (Accountability Principles) and the Records Principles 2014 (Records Principles) by updating the definition of the National Aged Care Mandatory Quality Indicator Program Manual (Program Manual).

The Department of Health and Aged Care (Department) has updated the Program Manual and it will be incorporated by reference into the Accountability Principles and the Records Principles. The Program Manual is titled the National Aged Care Mandatory Quality Indicator Program Manual 4.0–Part A (Manual). The Program Manual reflects the expansion of the QI Program to include an additional three quality indicators for enrolled nursing, allied health and lifestyle officers.

The Manual will expand the QI Program to 14 quality indicators by building on the existing 11 quality indicators which include:

- pressure injuries;
- physical restraint;
- unplanned weight loss;
- falls and major injury;
- medication management;
- activities of daily living;
- incontinence care;
- hospitalisation;
- workforce;
- consumer experience; and
- quality of life

The Manual will also change the name of the physical restraint quality indicator to restrictive practices to better align with the intent of the indicator and to ensure language is consistent with other aged care programs and legislation. This amendment will not

change the data being collected or reported it will simply be an administrative name change.

Background

Since 1 July 2019, the Accountability Principles and Records Principles have included responsibilities for all approved providers of residential aged care to:

- make measurements or other assessments relating to the quality of residential aged care provided to care recipients against specified quality indicators, in accordance with the Manual;
- compile or otherwise derive from those measurements or assessments information that is relevant to indicating the quality of the care (but is not personal information about any of the care recipients);
- give this information to the Secretary for the Department; and
- keep records required by the Manual.

Since 2019, the three original quality indicators have been expanded and revised. The QI Program currently requires the collection and reporting of data against 11 quality indicators across crucial care areas — pressure injuries, physical restraint, unplanned weight loss, falls and major injury, medication management, activities of daily living, incontinence care, hospitalisation, workforce, consumer experience and quality of life.

From the commencement of the Instrument, the QI Program will be expanded to include an additional five data points across three staffing quality indicators; two for enrolled nursing, two for allied health and one for lifestyle officers in line with the 2023-24 Budget commitment. These data points were developed following a literature and evidence review, extensive consultation and a six-week pilot of the proposed new quality indicators. Four of the five data points will be calculated by the department from data reported through the Quarterly Financial Report (QFR), therefore no requirement on providers to report this information again (no additional administrative burden being placed on providers).

The Amendment Principles will also amend the definition of the National Aged Care Mandatory Quality Indicator Program Manual to refer to the new Manual.

Quality indicators measure aspects of quality of care that can affect the health, wellbeing and quality of life of care recipients. Quality indicator outcomes are relevant to the care provided for care recipients, and poor quality indicator results can reflect substandard care quality. By measuring, monitoring and comparing these quality indicator results the QI Program can support providers with quality improvement.

The information collected through the QI Program complements the Department's increased focus on improving the quality of aged care and empowering older Australians with access to information to make informed decisions about aged care.

The Australian Institute of Health and Welfare publishes de-identified national state and territory level QI Program data on the GEN Aged Care Data website.

Authority

Section 96-1 of the Aged Care Act provides that the Minister may make Principles providing for matters required or permitted, or necessary or convenient to give effect to the relevant Part or section of the Aged Care Act.

Accountability Principles

The Accountability Principles set out matters for the purpose of Part 4.3 of the Aged Care Act (or matters necessary or convenient to carry out and give effect to the matters set out in that Part).

Record Keeping Principles

The Records Principles set out matters for the purpose of Part 6.3 of the Aged Care Act (or matters necessary or convenient to carry out and give effect to the matters set out in that Part).

Reliance on subsection 33(3) of the *Acts Interpretation Act 1901*

Under subsection 33(3) of the *Acts Interpretation Act 1901*, where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

Documents incorporated by reference

Pursuant to paragraph 14(1)(b) of the *Legislation Act 2003*, the Manual as in force at the commencement of the Instrument, on 1 April 2025 is incorporated by reference into the Accountability Principles and the Records Principles.

The Manual will be accessible and freely available, through the Department's website at www.health.gov.au, to all approved providers of residential aged care, as well as care recipients and their families and carers.

The Manual will set out the requirements for approved providers of residential aged care to comply with the QI Program. The Manual prescribes the specific methods for collecting, recording, submitting and interpreting information for the QI Program.

The Manual is supplemented by the *National Aged Care Mandatory Quality Indicator Program Manual 4.0 - Part B* (Part B) which aims to support the use of quality indicators for continuous improvement. While not specified under legislation, Part B provides information, tools and resources for quality improvement relevant to the quality indicators

Commencement

The Instrument commences on 1 April 2025.

Consultation

The Department undertook extensive consultation to develop the new indicators enacted by the Instrument, including:

- seeking stakeholder feedback through consultation with over 100 individuals representing older Australians, aged care providers and peak organisations;
- obtaining technical input from 20 expert organisations; and
- conducting a six-week pilot with residential aged care services nationally to test the relevance, appropriateness, and usability of the quality indicators.

Given the work undertaken to develop the indicators, the Department did not engage with the aged care sector specifically on extending the existing subordinate legislation to include the new quality indicators as this is minor and administrative in nature. However, the Department did consult with 25 technical experts as part of the Quality Indicator Technical Advisory Group on the amendment of the Manual. These members include geriatricians, physiotherapists, occupational therapists, nursing and allied health union members, representatives from GP colleges, general practitioners, continence specialists, pharmacy representatives, aged care clinicians and academics.

General

The Instrument is a disallowable legislative instrument for the purposes of the *Legislation Act 2003*.

Details of the Instrument are set out in **Attachment A**.

The Instrument is compatible with the rights and freedoms recognised or declared under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A full statement of compatibility with human rights is set out in **Attachment B**.

Details of the *Aged Care Legislation Amendment (Quality Indicator Program) Principles 2024*

Section 1 – Name

Section 1 provides that the name of the instrument is the *Aged Care Legislation Amendment (Quality Indicator Program) Principles 2024* (Instrument).

Section 2 – Commencement

Section 2 provides that the Instrument commences on 1 April 2025.

Section 3 – Authority

Section 3 provides that the Instrument are made under the *Aged Care Act 1997*.

Section 4 – Schedules

Section 4 provides that each provision specified in a Schedule to this instrument is amended or repealed as set out in the Schedule, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1 – Amendments

Schedule 1 amends the *Accountability Principles 2014* (Accountability Principles) and the *Records Principles 2014* (Records Principles).

Accountability Principles 2014

Item 1 – Section 4 (after the definition of *charge exempt resident*)

This item inserts that the meaning of the term Department in the Accountability Principles to clarify that it is the Department of Health and Aged Care.

Item 2 – Section 4 (definition of *National Aged Care Mandatory Quality Indicator Program Manual*)

This item repeals and replaces the definition of National Aged Care Mandatory Quality Indicator Program Manual (Program Manual) in section 4 of the Accountability Principles and substitutes a new definition. The new definition updates the version of the Program Manual that was incorporated by reference from National Aged Care Mandatory Quality Indicator Program Manual 3.0–Part A in existence on 1 April 2023 to the National Aged Care Mandatory Quality Indicator Program Manual 4.0–Part A, the version in existence on 1 April 2025.

This will ensure the latest version of the Program Manual including the three new staffing quality indicators is the version specified in the Accountability Principles.

Item 3 – Paragraph 26(b)

Item 3 substitutes the date of “2023” to “2024” in paragraph 26(b) of the Accountability Principles.

The effect of this amendment is to ensure approved providers of residential aged care make measurements or other assessments in accordance with the Manual, as well as any relevant measurements and assessments made in accordance with previous versions of the Program Manual, as existing before 1 April 2025.

Records Principles 2014

Item 4 – Section 4 (after the definition of Charter of Aged Care Rights)

This item inserts that the meaning of the term Department in the Records Principles to clarify that it is the Department of Health and Aged Care.

Item 5 – Section 4 (definition of National Aged Care Mandatory Quality Indicator Program Manual)

This item repeals and replaces the definition of the Program Manual in section 4 of the Records Principles. The new definition updates the version of the Program Manual that was incorporated by reference from National Aged Care Mandatory Quality Indicator Program Manual 3.0–Part A in existence on the commencement of the *Aged Care Legislation Amendment (Quality Indicator Program) Principles 2023* on 1 April 2023 to the National Aged Care Mandatory Quality Indicator Program Manual 4.0–Part A, the version in existence on 1 April 2025.

The Program Manual provides data collection and recording methods for each of the 11 quality indicators. In addition, the Program Manual specifies instructions for providers to submit their collated data through the Government Provider Management System (GPMS) as well as the dates for collection and submission of data.

In accordance with paragraph 7(v) of the Records Principles, approved providers must keep records that are required by the Manual to be kept.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Aged Care Legislation Amendment (Quality Indicator Program) Principles 2024

The *Aged Care Legislation Amendment (Quality Indicator Program) Principles 2024* (Instrument) is compatible with the human rights and freedoms recognised or declared in the international instruments listed in Section 3 of the *Human Rights (Parliamentary Scrutiny Act) Act 2011*.

Overview of the legislative instrument

The purpose of the Amendment Principles is to amend the *Accountability Principles 2014* (Instrument) and the *Records Principles 2014* (Records Principles) to update the version of the Manual that was incorporated by reference from National Aged Care Mandatory Quality Indicator Program Manual 3.0–Part A in existence on the commencement of the *Aged Care Legislation Amendment (Quality Indicator Program) Principles 2023* to the National Aged Care Mandatory Quality Indicator Program Manual 4.0–Part A, (Program Manual) the version in existence on 1 April 2025.

The Accountability Principles and Records Principles include responsibilities for all approved providers of residential aged care to:

- make measurements or other assessments relating to the quality of residential aged care provided to care recipients against specified quality indicators, in accordance with the Manual;
- compile or otherwise derive from those measurements or assessments information that is relevant to indicating the quality of the care (but is not personal information about any of the care recipients);
- give this information to the Secretary of the Department of Health and Aged Care (Department); and
- keep records required by the Manual.

From 1 April 2025, the QI Program will be expanded from the existing* 11 quality indicators to 14 quality indicators:

- pressure injuries;*
- physical restraint;*
- unplanned weight loss;*
- falls and major injury;*
- medication management;*
- activities of daily living;*
- incontinence care;*
- hospitalisation;*
- workforce;*

- consumer experience;*
- quality of life*
- enrolled nursing;
- allied health; and
- lifestyle officer.

From 1 April 2025, the name of the physical restraint quality indicator will also be changed to restrictive practices to better align with the intent of the indicator and to ensure language is consistent with other aged care programs and legislation. This will not change the data being collected or reported it will simply be an administrative name change.

From 1 April 2025, amendments to the Accountability Principles and the Records Principles will require approved providers of residential aged care to collect data for each quality indicator in accordance with the Manual.

Human rights implications

The Instrument engages the following human rights:

- the right to an adequate standard of living;
- the right to the enjoyment of the highest attainable standard of physical and mental health;
- the right to prevent acts of cruel, degrading or in humane treatment or punishment; and
- the right that no one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.

The Instrument is compatible with the right to an adequate standard of living and the right to the enjoyment of the highest attainable standard of physical and mental health as contained in article 11(1) and article 12(1) of the *International Covenant on Economic, Social and Cultural Rights*.

Quality indicators measure aspects of service provision contributing to the quality of care and services for care recipients. The intent of the QI Program is to enable providers to have robust, valid data to measure, monitor, compare and improve their performance. Information gathered through the QI Program will complement the Department's increased focus on clinical governance, as well as supporting a national focus on high quality care and quality of life for older Australians. These additional staffing quality indicators will add to the robust and valid data set that providers can use to measure, monitor, compare and improve their performance.

The QI Program aims to achieve quality outcomes against quality indicators directly affecting a care recipient's standard of living and physical health and wellbeing.

- Monitoring and intervention to improve pressure injuries, restrictive practices, unplanned weight loss, falls and major injuries, medication management, activities of daily living, incontinence care, hospitalisation, workforce, consumer experience and quality of life, enrolled nursing, allied health and lifestyle officers will reduce associated adverse outcomes.

- The medication management quality indicator aims to promote appropriate use of antipsychotics and contributes to reducing the misuse of medications.
- Identifying and monitoring workforce turnover will increase focus on staff retention, which is crucial to support quality and continuity of care.
- Monitoring staffing care minutes and the receipt of recommended allied health services will draw attention to the staffing mix in residential aged care services and increase accountability on providers to have sufficient qualified staff. It will also improve care recipients' access to services they are identified as needing.
- Undertaking consumer experience and quality of life assessments aims to promote person centred care to support improved physical and mental health for care recipients.

Further, the Instrument is compatible with the right to prevent acts of cruel, degrading or inhumane treatment or punishment as contained in article 16(1) of the *Convention against Torture and other Cruel, Inhumane or Degrading Treatment or Punishment*.

The restrictive practices (formerly physical restraint) quality indicator aims to promote a restraint-free environment and contribute to alleviating any degrading and inhumane treatment, including physical injuries of aged care recipients (noting that approved providers also have responsibilities in relation to the use of restrictive practices set out in the *Quality of Care Principles 2014*).

The Instrument is also compatible with the right that no one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation as contained in article 17(1) of the *International Covenant on Civil and Political Rights*.

QI Program data is collected by approved providers of residential aged care and aligns through existing routine care and management practices. The data is de-identified (without the inclusion of personal information) prior to being provided to the Secretary of the Department. Any infringement of the individual right to privacy is minimised and the risk of an infringement is no greater than the risk under existing arrangements in the provision of residential aged care.

Conclusion

The Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. The Instrument promote care recipients' rights to an adequate standard of living, to optimal physical and mental health, to live without fear of cruel, degrading, inhumane treatment while maintaining the right to privacy.

Minister the Hon Anika Wells
Minister for Aged Care