

# EXPOSURE DRAFT



EXPOSURE DRAFT (01 June 2021)

## Aged Care Legislation Amendment (Royal Commission Response No. 1) Principles 2021

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I, Richard Colbeck, Minister for Senior Australians, Aged Care Services, make the following principles.

Dated 2021

Richard Colbeck [**DRAFT ONLY—NOT FOR SIGNATURE**]  
Minister for Senior Australians, Aged Care Services

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## 1 Name

This instrument is the *Aged Care Legislation Amendment (Royal Commission Response No. 1) Principles 2021*.

## 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. Sections 1 to 4 and anything in this instrument not elsewhere covered by this table	The day after this instrument is registered.	
2. Schedule 1	1 July 2021.	1 July 2021
3. Schedule 2	1 September 2021.	1 September 2021
4. Schedule 3	1 July 2021.	1 July 2021

Note: This table relates only to the provisions of this instrument as originally made.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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

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Schedule 1 Amendments commencing 1 July 2021

Part 1 Main amendments

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## Schedule 1—Amendments commencing 1 July 2021

### Part 1—Main amendments

#### *Quality of Care Principles 2014*

##### 1 Section 4 (paragraph (e) of note)

Repeal the paragraph, substitute:

- (e) restrictive practice;
- (f) staff member.

##### 2 Section 4

Insert:

*care and services plan*, for a care recipient, means the care and services plan documented for the care recipient in accordance with the Aged Care Quality Standards set out in Schedule 2.

Note: See Standard 2 (ongoing assessment and planning with consumers) set out in clause 2 of Schedule 2.

##### 3 Section 4 (definition of *chemical restraint*)

Repeal the definition, substitute:

*chemical restraint* has the meaning given by subsection 15E(2).

##### 4 Section 4

Insert:

*environmental restraint* has the meaning given by subsection 15E(3).

*mechanical restraint* has the meaning given by subsection 15E(4).

*medical practitioner* has the same meaning as in the *Health Insurance Act 1973*.

*nurse practitioner* has the same meaning as in the *Health Insurance Act 1973*.

##### 5 Section 4 (definition of *physical restraint*)

Repeal the definition, substitute:

*physical restraint* has the meaning given by subsection 15E(5).

##### 6 Section 4

Insert:

*registered nurse* has the same meaning as in the *Health Insurance Act 1973*.

##### 7 Section 4 (definition of *restraint*)

Repeal the definition.

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## 8 Section 4

Insert:

*restrictive practices substitute decision-maker*, for a restrictive practice in relation to a care recipient, means a person or body that, under the law of the State or Territory in which the care recipient is provided with aged care, can give informed consent to:

- (a) the use of the restrictive practice in relation to the care recipient; and
- (b) if the restrictive practice is chemical restraint—the prescribing of medication for the purpose of using the chemical restraint;

if the care recipient lacks the capacity to give that consent.

*seclusion* has the meaning given by subsection 15E(6).

## 9 Subsection 13(4)

Omit “documented for the care recipient in accordance with the Aged Care Quality Standards set out in Schedule 2”, substitute “for the care recipient”.

## 10 Subsection 13(4) (note)

Repeal the note.

## 11 Subsection 15B(4)

Omit “documented for the care recipient in accordance with the Aged Care Quality Standards set out in Schedule 2”, substitute “for the care recipient”.

## 12 Subsection 15B(4) (note)

Repeal the note.

## 13 Subsection 15C(4)

Omit “documented for the care recipient in accordance with the Aged Care Quality Standards set out in Schedule 2”, substitute “for the care recipient”.

## 14 Subsection 15C(4) (note)

Repeal the note.

## 15 Part 4A

Repeal the Part, substitute:

## **Part 4A—Behaviour support and restrictive practices— residential care and certain flexible care**

### **Division 1—Preliminary**

#### **15D Purpose of this Part**

This Part:

- (a) specifies kinds of aged care; and
- (b) provides that certain practices or interventions are restrictive practices; and

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- (c) sets out circumstances for the use of restrictive practices in relation to care recipients; and
- (d) specifies other responsibilities of approved providers.

## 15DA Kinds of aged care for the purposes of paragraph 54-1(1)(f) of the Act

For the purposes of paragraph 54-1(1)(f) of the Act, the following kinds of aged care are specified:

- (a) residential care;
- (b) flexible care in the form of short-term restorative care provided in a residential care setting.

## Division 2—Restrictive practices

### 15E Practices or interventions that are restrictive practices

- (1) For the purposes of subsection 54-9(2) of the Act, each of the following is a restrictive practice in relation to a care recipient:
  - (a) chemical restraint;
  - (b) environmental restraint;
  - (c) mechanical restraint;
  - (d) physical restraint;
  - (e) seclusion.
- (2) **Chemical restraint** is a practice or intervention that is, or that involves, the use of medication or a chemical substance for the primary purpose of influencing a care recipient's behaviour, but does not include the use of medication prescribed for:
  - (a) the treatment of, or to enable treatment of, the care recipient for:
    - (i) a diagnosed mental disorder; or
    - (ii) a physical illness; or
    - (iii) a physical condition; or
  - (b) end of life care for the care recipient.
- (3) **Environmental restraint** is a practice or intervention that restricts, or that involves restricting, a care recipient's free access to all parts of the care recipient's environment (including items and activities) for the primary purpose of influencing the care recipient's behaviour.
- (4) **Mechanical restraint** is a practice or intervention that is, or that involves, the use of a device to prevent, restrict or subdue a care recipient's movement for the primary purpose of influencing the care recipient's behaviour, but does not include the use of a device for therapeutic or non-behavioural purposes in relation to the care recipient.
- (5) **Physical restraint** is a practice or intervention that:
  - (a) is or involves the use of physical force to prevent, restrict or subdue movement of a care recipient's body, or part of a care recipient's body, for the primary purpose of influencing the care recipient's behaviour; but



- (b) does not include the use of a hands-on technique in a reflexive way to guide or redirect the care recipient away from potential harm or injury if it is consistent with what could reasonably be considered to be the exercise of care towards the care recipient.
- (6) **Seclusion** is a practice or intervention that is, or that involves, the solitary confinement of a care recipient in a room or a physical space at any hour of the day or night where:
  - (a) voluntary exit is prevented or not facilitated; or
  - (b) it is implied that voluntary exit is not permitted;for the primary purpose of influencing the care recipient's behaviour.

## **Division 3—Circumstances for the use of restrictive practices**

### **15F Circumstances for the use of restrictive practices**

For the purposes of paragraph 54-1(1)(f) of the Act, the circumstances in which an approved provider may use a restrictive practice in relation to a care recipient are that the requirements set out in this Division that apply to the restrictive practice in relation to the care recipient are satisfied.

Note: The use of a restrictive practice in relation to a residential care recipient of an approved provider other than in these circumstances is a reportable incident (see paragraph 54-3(2)(g) of the Act).

### **15FA Requirements for the use of any restrictive practice**

- (1) The following requirements apply to the use of any restrictive practice in relation to a care recipient:
  - (a) the restrictive practice is used only:
    - (i) as a last resort to prevent harm to the care recipient or other persons; and
    - (ii) after consideration of the likely impact of the use of the restrictive practice on the care recipient;
  - (b) to the extent possible, best practice alternative strategies have been used before the restrictive practice is used;
  - (c) the alternative strategies that have been considered or used have been documented;
  - (d) the restrictive practice is used only to the extent that it is necessary and in proportion to the risk of harm to the care recipient or other persons;
  - (e) the restrictive practice is used in the least restrictive form, and for the shortest time, necessary to prevent harm to the care recipient or other persons;
  - (f) informed consent to the use of the restrictive practice has been given by:
    - (i) the care recipient; or
    - (ii) if the care recipient lacks the capacity to give that consent—the restrictive practices substitute decision-maker for the restrictive practice;
  - (g) the use of the restrictive practice complies with any relevant provisions of the care and services plan for the care recipient;

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- (h) the use of the restrictive practice complies with the Aged Care Quality Standards set out in Schedule 2;
  - (i) the use of the restrictive practice is not inconsistent with the Charter of Aged Care Rights set out in Schedule 1 to the *User Rights Principles 2014*;
  - (j) the use of the restrictive practice meets the requirements (if any) of the law of the State or Territory in which the restrictive practice is used.
- (2) However, the requirements set out in paragraphs (1)(a), (b), (c), (f) and (g) do not apply to the use of a restrictive practice in relation to a care recipient if the use of the restrictive practice in relation to the care recipient is necessary in an emergency.
- (3) Subsection (2) applies only while the emergency exists.

Note: See section 15GB for other responsibilities of approved providers that apply if the use of a restrictive practice in relation to a care recipient is necessary in an emergency.

## **15FB Additional requirements for the use of restrictive practices other than chemical restraint**

- (1) The following requirements apply to the use of a restrictive practice in relation to a care recipient that is not chemical restraint:
- (a) an approved health practitioner who has day-to-day knowledge of the care recipient has:
    - (i) assessed the care recipient as posing a risk of harm to the care recipient or any other person; and
    - (ii) assessed that the use of the restrictive practice is necessary;
  - (b) the assessments have been documented.
- (2) However, the requirement set out in paragraph (1)(b) does not apply to the use of a restrictive practice in relation to a care recipient if the use of the restrictive practice in relation to the care recipient is necessary in an emergency.
- (3) Subsection (2) applies only while the emergency exists.

Note: See section 15GB for other responsibilities of approved providers that apply if the use of a restrictive practice in relation to a care recipient is necessary in an emergency.

## **15FC Additional requirements for the use of restrictive practices that are chemical restraint**

- (1) The following requirements apply to the use of a restrictive practice in relation to a care recipient that is chemical restraint:
- (a) the approved provider is satisfied that a medical practitioner or nurse practitioner has:
    - (i) assessed the care recipient as posing a risk of harm to the care recipient or any other person; and
    - (ii) assessed that the use of the chemical restraint is necessary; and
    - (iii) prescribed medication for the purpose of using the chemical restraint;
  - (b) the following matters have been documented in the care and services plan for the care recipient:
    - (i) the assessments;

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- (ii) the practitioner's decision to use the chemical restraint;
  - (iii) the care recipient's behaviours that are relevant to the need for the chemical restraint;
  - (iv) the reasons the chemical restraint is necessary;
  - (v) the information (if any) provided to the practitioner that informed the decision to prescribe the medication;
- (c) the approved provider is satisfied that informed consent to the prescribing of the medication has been given by:
- (i) the care recipient; or
  - (ii) if the care recipient lacks the capacity to give that consent—the restrictive practices substitute decision-maker for the restrictive practice.

Note: Codes of appropriate professional practice for medical practitioners and nurse practitioners provide for the practitioners to obtain informed consent before prescribing medications. Those codes are approved under the Health Practitioner Regulation National Law and are:

- (a) for medical practitioners—*Good medical practice: a code of conduct for doctors in Australia* (which in 2021 could be viewed on the website of the Medical Board of Australia (<https://www.medicalboard.gov.au>)); and
- (b) for nurse practitioners—*Code of conduct for nurses* (which in 2021 could be viewed on the website of the Nursing and Midwifery Board of Australia (<https://www.nursingmidwiferyboard.gov.au>)).

(2) However, the requirements set out in paragraphs (1)(b) and (c) do not apply to the use of a restrictive practice in relation to a care recipient if the use of the restrictive practice in relation to the care recipient is necessary in an emergency.

(3) Subsection (2) applies only while the emergency exists.

Note: See section 15GB for other responsibilities of approved providers that apply if the use of a restrictive practice in relation to a care recipient is necessary in an emergency.

## **Division 4—Other responsibilities of approved providers relating to restrictive practices**

### **15G Purpose of this Division**

For the purposes of paragraph 54-1(1)(h) of the Act, this Division specifies other responsibilities of an approved provider that provides aged care of a kind specified in section 15DA of this instrument to a care recipient.

### **15GA Responsibilities while restrictive practice being used**

If an approved provider uses a restrictive practice in relation to a care recipient, the approved provider must ensure that while the restrictive practice is being used:

- (a) the care recipient is monitored for the following:
  - (i) signs of distress or harm;
  - (ii) side effects and adverse events;
  - (iii) changes in mood or behaviour;

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- (iv) changes in well-being, including the care recipient’s ability to engage in activities that enhance quality of life and are meaningful and pleasurable;
  - (v) changes in the care recipient’s ability to maintain independent function (to the extent possible);
  - (vi) changes in the care recipient’s ability to engage in activities of daily living (to the extent possible); and
- (b) the necessity for the use of the restrictive practice is regularly monitored, reviewed and documented; and
  - (c) the effectiveness of the use of the restrictive practice, and the effect of changes in the use of the restrictive practice, are monitored; and
  - (d) to the extent possible, changes are made to the care recipient’s environment to reduce or remove the need for the use of the restrictive practice; and
  - (e) if the restrictive practice is chemical restraint—information about the effects and use of the chemical restraint is provided to the medical practitioner or nurse practitioner who prescribed the medication for the purpose of using the chemical restraint as mentioned in paragraph 15FC(1)(a).

## 15GB Responsibilities following emergency use of restrictive practice

If an approved provider uses a restrictive practice in relation to a care recipient and the use of the restrictive practice in relation to the care recipient is necessary in an emergency, the approved provider must, as soon as practicable after the restrictive practice starts to be used:

- (a) if the care recipient lacked capacity to consent to the use of the restrictive practice—inform the restrictive practices substitute decision-maker for the restrictive practice about the use of the restrictive practice; and
- (b) ensure that the following matters are documented in the care and services plan for the care recipient:
  - (i) the care recipient’s behaviours that were relevant to the need for the use of the restrictive practice;
  - (ii) the alternative strategies that were considered or used (if any) before the use of the restrictive practice;
  - (iii) the reasons the use of the restrictive practice was necessary;
  - (iv) the care to be provided to the care recipient in relation to the care recipient’s behaviour;
  - (v) if the restrictive practices substitute decision-maker for the restrictive practice was informed about the use of the restrictive practice under paragraph (a)—a record of the restrictive practices substitute decision-maker being so informed; and
- (c) if the restrictive practice is not chemical restraint—ensure that the assessments mentioned in paragraph 15FB(1)(a) are documented; and
- (d) if the restrictive practice is chemical restraint—ensure that the matters mentioned in paragraph 15FC(1)(b) are documented in the care and services plan for the care recipient.

## 16 Subsection 15NA(1) (note 2)

Omit “physical restraint or chemical restraint”, substitute “a restrictive practice”.

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## **17 Subsection 15NB(2)**

Repeal the subsection, substitute:

- (2) Despite paragraph 54-3(2)(g) of the Act, the use of a restrictive practice in relation to a residential care recipient is not a reportable incident if:
  - (a) the use of the restrictive practice is in a transition care program in a residential care setting; and
  - (b) the use is in accordance with Part 4A of these principles (assuming that that Part applied to the residential care recipient in relation to that care).

## **18 Subparagraph 8(3)(e)(ii) of Schedule 2**

Omit “restraint”, substitute “restrictive practices”.

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Schedule 1 Amendments commencing 1 July 2021

Part 2 Technical amendments (staff members)

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## Part 2—Technical amendments (staff members)

### *User Rights Principles 2014*

#### **19 Section 4 (at the end of the note)**

Add:

; (f) staff member.

#### **20 Paragraph 11(3)(a)**

Omit “(as defined in section 63-1AA of the Act)”.

#### **21 Subparagraphs 17(2)(f)(i) and (ii)**

Omit “(as defined in section 63-1AA of the Act)”.

#### **22 Paragraphs 20(3)(a), 23AE(3)(a) and 33(3)(a)**

Omit “(as defined in section 63-1AA of the Act)”.

## **Schedule 2—Amendments commencing 1 September 2021**

### *Quality of Care Principles 2014*

#### **1 Paragraph 15FA(1)(c)**

After “documented”, insert “in the behaviour support plan for the care recipient”.

#### **2 Paragraph 15FA(1)(g)**

Omit “relevant provisions of the care and services plan for the care recipient”, substitute “provisions of the behaviour support plan for the care recipient that relate to the use of the restrictive practice”.

#### **3 Paragraph 15FB(1)(b)**

Repeal the paragraph, substitute:

- (b) the following matters have been documented in the behaviour support plan for the care recipient:
  - (i) the assessments;
  - (ii) a description of any engagement with persons other than the approved health practitioner in relation to the assessments;
  - (iii) a description of any engagement with external support services (for example, dementia support specialists) in relation to the assessments.

#### **4 Paragraph 15FC(1)(b)**

Omit “care and services plan”, substitute “behaviour support plan”.

#### **5 At the end of paragraph 15FC(1)(b)**

Add:

- (vi) a description of any engagement with persons other than the practitioner in relation to the use of the chemical restraint;
- (vii) a description of any engagement with external support services (for example, dementia support specialists) in relation to the assessments;

#### **6 Paragraph 15GB(b)**

Omit “care and services plan”, substitute “behaviour support plan”.

#### **7 Paragraph 15GB(c)**

After “documented”, insert “in the behaviour support plan for the care recipient”.

#### **8 Paragraph 15GB(d)**

Omit “care and services plan”, substitute “behaviour support plan”.

#### **9 At the end of Part 4A**

Add:

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## **Division 5—Other responsibilities of approved providers relating to behaviour support plans**

### **15H Purpose of this Division**

For the purposes of paragraph 54-1(1)(h) of the Act, this Division specifies other responsibilities of an approved provider that provides aged care of a kind specified in section 15DA of this instrument to a care recipient.

### **15HA Responsibilities relating to behaviour support plans**

- (1) If:
  - (a) an approved provider provides aged care to a care recipient; and
  - (b) behaviour support is needed for the care recipient;the approved provider must ensure that a behaviour support plan for the care recipient is included in the care and services plan for the care recipient.
- (2) The approved provider must ensure that the behaviour support plan:
  - (a) is prepared, reviewed and revised in accordance with this Division; and
  - (b) sets out the matters required by this Division and Divisions 3 and 4.
- (3) In preparing the behaviour support plan, the approved provider must take into account any previous assessment relating to the care recipient that is available to the approved provider.

### **15HB Matters to be set out in behaviour support plans—alternative strategies for addressing behaviours of concern**

A behaviour support plan for a care recipient must set out the following matters:

- (a) information about the care recipient that helps the approved provider to understand the care recipient and the care recipient's behaviour (such as information about the care recipient's past experience and background);
- (b) any assessment of the care recipient that is relevant to understanding the care recipient's behaviour;
- (c) information about behaviours of concern for which the care recipient may need support;
- (d) the following information about each occurrence of behaviours of concern for which the care recipient has needed support:
  - (i) the date, time and duration of the occurrence;
  - (ii) any adverse consequences for the care recipient or other persons;
  - (iii) any related incidents;
  - (iv) any warning signs for, or triggers or causes of, the occurrence (including trauma, injury, illness or unmet needs such as pain, boredom or loneliness);
- (e) alternative strategies for addressing the behaviours of concern that:
  - (i) are best practice alternatives to the use of restrictive practices in relation to the care recipient; and



- (ii) take into account the care recipient's preferences (including preferences in relation to care delivery) and matters that might be meaningful or of interest to the care recipient; and
- (iii) aim to improve the care recipient's quality of life and engagement;
- (f) any alternative strategies that have been considered for use, or have been used, in relation to the care recipient;
- (g) for any alternative strategy that has been used in relation to the care recipient:
  - (i) the effectiveness of the strategy in addressing the behaviours of concern; and
  - (ii) records of the monitoring and evaluation of the strategies;
- (h) a description of the approved provider's consultation about the use of alternative strategies in relation to the care recipient with the care recipient or the care recipient's representative.

## **15HC Matters to be set out in behaviour support plans—if use of restrictive practice assessed as necessary**

If the use of a restrictive practice in relation to a care recipient is assessed as necessary as mentioned in section 15FB or 15FC, the behaviour support plan for the care recipient must set out the following matters:

- (a) the care recipient's behaviours of concern that are relevant to the need for the use of the restrictive practice;
- (b) the restrictive practice and how it is to be used, including its duration, frequency and intended outcome;
- (c) the best practice alternative strategies that must be used (to the extent possible) before using the restrictive practice;
- (d) how the use of the restrictive practice is to be monitored, including how the monitoring will be escalated if required, taking into account the nature of the restrictive practice and any care needs that arise from the use of the restrictive practice;
- (e) how the use of the restrictive practice is to be reviewed, including consideration of the following:
  - (i) the outcome of its use and whether the intended outcome was achieved;
  - (ii) whether an alternative strategy could be used to address the care recipient's behaviours of concern;
  - (iii) whether a less restrictive form of the restrictive practice could be used to address the care recipient's behaviours of concern;
  - (iv) whether there is an ongoing need for its use;
  - (v) if the restrictive practice is chemical restraint—whether the medication prescribed for the purpose of using the chemical restraint can or should be reduced or stopped;
- (f) a description of the approved provider's consultation about the use of the restrictive practice with:
  - (i) the care recipient; or
  - (ii) if the care recipient lacks the capacity to give informed consent to the use of the restrictive practice—the restrictive practices substitute decision-maker for the restrictive practice;

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- (g) a record of the giving of informed consent to the use of the restrictive practice by:
  - (i) the care recipient; or
  - (ii) if the care recipient lacks the capacity to give that consent—the restrictive practices substitute decision-maker for the restrictive practice.

Note: Assessments mentioned in sections 15FB and 15FC must also be documented in the behaviour support plan (see paragraphs 15FB(1)(b) and 15FC(1)(b)).

## **15HD Matters to be set out in behaviour support plans—if restrictive practice used**

If a restrictive practice in relation to a care recipient is used in relation to the care recipient, the behaviour support plan for the care recipient must set out the following matters:

- (a) the restrictive practice and how it was used, including the following:
  - (i) when it began to be used;
  - (ii) the duration of each use;
  - (iii) the frequency of its use;
  - (iv) the outcome of its use and whether the intended outcome was achieved;
- (b) if, under the plan, the restrictive practice is to be used only on an as-needed basis in response to particular behaviour, or in particular circumstances:
  - (i) the care recipient's behaviours of concern that led to the use of the restrictive practice; and
  - (ii) the actions (if any) taken leading up to the use of the restrictive practice, including any alternative strategies that were used before the restrictive practice was used;
- (c) the details of the persons involved in the use of the restrictive practice;
- (d) a description of any engagement with external support services (for example, dementia support specialists) in relation to the use of the restrictive practice;
- (e) details of the monitoring of the use of the restrictive practice as required by the plan;
- (f) the outcome of the review of the use of the restrictive practice as required by the plan.

Note 1: For paragraphs (e) and (f), see paragraphs 15HC(d) and (e) for the requirements for a behaviour support plan for a care recipient to require monitoring and review of the use of a restrictive practice in relation to the care recipient.

Note 2: If the use of a restrictive practice in relation to a care recipient is necessary in an emergency, other matters must also be documented in the behaviour support plan for the care recipient (see section 15GB).

## **15HE Matters to be set out in behaviour support plans—if need for ongoing use of restrictive practice indicated**

If a review of the use of a restrictive practice in relation to a care recipient (as required by the behaviour support plan for the care recipient) indicates a need for

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the ongoing use of the restrictive practice, the behaviour support plan for the care recipient must set out the following matters:

- (a) the restrictive practice and how it is to be used, including its duration, frequency and intended outcome;
- (b) how the ongoing use of the restrictive practice is to be monitored, including how the monitoring will be escalated if required, taking into account the nature of the restrictive practice and any care needs that arise from the use of the restrictive practice;
- (c) how the ongoing use of the restrictive practice is to be reviewed, including consideration of the following:
  - (i) the outcome of the ongoing use of the restrictive practice and whether the intended outcome is being achieved;
  - (ii) whether an alternative strategy could be used to address the care recipient's behaviours of concern;
  - (iii) whether a less restrictive form of the restrictive practice could be used to address the care recipient's behaviours of concern;
  - (iv) whether there continues to be need for the ongoing use of the restrictive practice;
  - (v) if the restrictive practice is chemical restraint—whether the medication prescribed for the purpose of using the chemical restraint can or should be reduced or stopped;
- (d) a description of the approved provider's consultation about the ongoing use of the restrictive practice with:
  - (i) the care recipient; or
  - (ii) if the care recipient lacks the capacity to give informed consent to the ongoing use of the restrictive practice—the restrictive practices substitute decision-maker for the restrictive practice;
- (e) a record of the giving of informed consent to the ongoing use of the restrictive practice by:
  - (i) the care recipient; or
  - (ii) if the care recipient lacks capacity to give that consent—the restrictive practices substitute decision-maker for the restrictive practice.

## **15HF Reviewing and revising behaviour support plans**

An approved provider must review a behaviour support plan for a care recipient and make any necessary revisions:

- (a) on a regular basis; and
- (b) as soon as practicable after any change in the care recipient's circumstances.

## **15HG Consulting on behaviour support plans**

- (1) In preparing, reviewing or revising a behaviour support plan for a care recipient, an approved provider must consult the following:
  - (a) the care recipient and any other person nominated by the care recipient (unless the care recipient lacks the capacity to be consulted);

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- (b) if the care recipient lacks the capacity to be consulted—a person or body who, under the law of the State or Territory in which the care recipient is provided with aged care, can make decisions about that care;
  - (c) health practitioners with expertise relevant to the care recipient’s behaviours of concern.
- (2) If the use of a restrictive practice in relation to the care recipient is assessed as necessary as mentioned in section 15FB or 15FC, the approved provider must also consult the following in preparing, reviewing or revising the behaviour support plan:
  - (a) the approved health practitioner who made the assessment;
  - (b) if the care recipient lacks the capacity to be consulted—the restrictive practices substitute decision-maker for the restrictive practice.
- (3) In consulting under this section, the approved provider must provide the plan or revised plan, and any associated information, in an appropriately accessible format.

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Repeals commencing 1 July 2021 **Schedule 3**

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## **Schedule 3—Repeals commencing 1 July 2021**

### *Committee Principles 2014*

#### **1 The whole of the instrument**

Repeal the instrument.