

Risk Alert

APRIL 2023



Aged Care; What should Brokers know?

- Aged Care in Australia operates with various models such as residential care, home care, respite care. Changes are coming for this sector and they apply to *every provider in every state*.
- Since issuing the Royal Commission Report into Quality and Safety in Aged Care (2021), a number of parliamentary processes have taken place to respond with legislative actions.
- Two key Bills of Parliament were tabled late last year to introduce legislation to enforce material changes within the sector.
- Changes to legislation and regulations always gives rise to risk and opportunities, depending on how functional and prepared the organisation.
- Brokers should stay wise to exposures arising from the changes and incorporate them in an annual review as part of your risk advisory roles and responsibilities with your clients.
- The new requirements focus on governance and risk management, financial transparency, quality and safety of care provision and workforce. A new “Star System” has also been implemented to rate every provider and is publicly available.
- Ansvar has unique expertise in our underwriting, claims and risk solutions teams and we are available to support brokers and our mutual aged care customers through these challenging times.

Big changes for the sector are taking place.

Here's 10 key changes in summary:

1

Registered Nurse to be on site, on duty at all times for residential facilities by July 1 2023.

2

Workforce minimum care minutes which are required to be reported and are made publicly available.

3

New **star rating system** – every provider is rated on quality and performance indicators by the Aged Care Quality and Safety Commission – and these are public. [Click for more information.](#)

4

New **funding model** commenced October 1 2022. New prudential standards now require providers to submit Quarterly Financial Reports – responding to prudential compliance, balance sheet reporting as well as workforce and quality of care requirements where funding is specifically provided to address risks.

5

New **Code of Conduct**; similar to Disability Sector. Breaches of the Code of Conduct by providers and key personnel (e.g. board directors and executives) will result in significant penalties.

6

Serious Incident Response Scheme (this requires providers to report certain incidents such as abuse, neglect, restraint)- will be extended. Currently only residential care is covered by this scheme. It will extend to all providers (e.g. home care).

7

Restrictive practices regulation to eliminate physical restraint and use of other means of restraint such as psychotropic medications, with penalties applying for non-conformance.

8

Banning Orders and Suitability of Key Personnel will require higher scrutiny by providers of suitability of individuals to act in positions and to monitor code of conduct compliance and requirements. There will be strict liability offences against individuals and provider for non-compliance with these orders.

9

Capping of charges specifically home care charges so that providers not charge exit fees and conform with charging of prices outlined by the commonwealth.

10

Governance and risk management step ups include requirements to have clinical governance committees, consumer advisory groups and that board members have the requisite skills to govern for vulnerable people. Risk management frameworks now form part of requirements under aged care accreditation standards.

What can Brokers do?



Incorporate these changes in a checklist for your client meetings.

Schedule a meeting with client senior managers to understand how they are responding and any risks they have to meeting the requirements. This provides an opportunity to ensure insurance is also well aligned to any exposures and to offer additional risk management support.



Discuss the Risk Management Framework.

Now more than ever, risk frameworks are under the spotlight – by regulators, funders and insurers. Insurability becomes a risk if appropriate governance and enterprise risk management frameworks are not in place and not meeting standards. Here is a link to the 6 common gaps we have identified in risk frameworks – use them as a guide for your assessments with clients.

[Click to link](#)



Ask about Care Governance and Incident Management.

These are just as important as questions on financials and balance sheets and give rise to serious liability exposures. New regulations now make boards accountable for clinical governance. We find many are struggling with this and need support. We also see incident systems from the dark ages: paper-based, unreliable storage and not covering off all incident types. Here is a link to guidance that will assist your client with some important clinical risk and incident management considerations:

[Click to link](#)



Seek expert support.

Ansvar is a specialist insurer and we can help brokers navigate the complex and rapidly changing environment with insurance products and claims experience matched to the aged care sector. Additionally, our expert Risk Solutions team works with brokers and aged care providers every day – providing enterprise risk management support and guidance, risk health checks, tools and resources and education programs. Check out what is on offer and what brokers and clients say about these services

[Click to link](#)



Accreditation and Sanctions – a must know!

- Aged care services are required to comply with the Aged Care Quality Standards. Onsite audits are conducted (planned and unplanned) by the Aged Care Quality and Safety Commission.
- The Quality Standards are made up of eight individual Standards:
 1. Consumer dignity and choice
 2. Ongoing assessment and planning with consumers
 3. Personal care and clinical care
 4. Services and supports for daily living
 5. Organisation's service environment
 6. Feedback and complaints
 7. Human resources
 8. Organisational governance.
- Standards 2,3 and 8 have historically been the subject of most non-compliances and give rise to liability exposure risks.
- Non-compliance with any of the standards is a serious matter. Brokers should require clients notify them of non-compliances and actions they are taking to rectify issues. Ansvar Insurance expects to be notified of serious breaches.
- Sanctions may be imposed on aged care providers by the Commission if there are immediate and severe risks with the facility's care and / or operations. This is the most serious of outcomes and results in enforceable regulatory actions. Ansvar Insurance must be notified immediately of any sanctions.

Want more info or a discussion with your team?

The Risk Solutions team are here to provide a range of consultancy services to assist clients to review and enhance their systems, processes and practices and the time to act is now.

For further advice, email us at info@ansvarrisk.com.au

Anthony Black

General Manager – Risk Solutions

0402 239 149

ablack@ansvarrisk.com.au

As our General Manager – Risk Solutions, Anthony works with organisations throughout Australia to support governance and risk management capability; supporting boards, senior managers and staff to implement effective approaches to support decision making, improve performance, optimise objectives and prevent harm.



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