

PARLIAMENTARY INQUIRY QUESTION ON NOTICE

Department of Health and Aged Care

JOINT COMMITTEE OF PUBLIC ACCOUNTS AND AUDIT

Inquiry into Administration of Commonwealth Regulations

22 November 2024

PDR Number: IQ24-000218

Regulatory impact and outcomes

Written

Chair: Linda Burney

Question:

1. The ACQSC's regulatory operating model includes a requirement that it 'understand regulatory impact and outcomes'. As of October 2023, it had no detailed plans to measure regulatory impact.

How has the ACQSC progressed with meeting the requirement that it understand regulatory impact and outcomes with regard to the aged care reforms?

Answer:

1. The Commission developed an evaluation plan to understand the regulatory impact and outcomes of the Commission's approach to regulating Provider Workforce-related Responsibilities and commenced implementation in November 2023.

The evaluation plan aligns with the Commission's Evaluation Framework and is informed by Australian Government Evaluation Guidance, from the Australian Centre for Evaluation.

The evaluation plan is designed to measure the Commission's performance and support continuous improvements to the Commission's risk-based, data driven regulatory craft. The evaluation plan contemplates what trends are observed in the sector, whether our regulatory activities were risk-based and implemented effectively, and the impact and outcomes of our regulatory activities.

To date, three interim reports on our regulatory response to the 24/7 RN responsibility have been provided to the Commission's executive decision-making committee (the Sector Risk Committee's Provider Workforce-related Responsibilities Sub-committee). A draft interim report on our regulatory response to mandatory care minutes requirement was provided to the Sub-Committee in November 2024.

Over time, the Commission will consolidate a summary of the key insights and findings from the interim evaluation reports into an Overarching Evaluation Report and draw on this to promote actionable insights for the sector.

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22 November 2024

PDR Number: IQ24-000219

Data collection in relation to the impact of care minutes and 24/7 RN

Written

Chair: Linda Burney

Question:

2. The ACQSC has developed four measures of success relating to the aged care reforms, but the regulatory approach does not provide a methodology for collecting data to measure performance against the measures of success. Neither have targets for the measures been established.
- a. How has the ACQSC progressed work on developing a methodology to collect data to assess the impact of care minutes and 24/7 RN?
 - b. What targets have been established for the four measures of success?

Answer:

2a. The Commission's evaluation plan uses data shared by the Department of Health and Aged Care and data held in the Commission's business systems including information collected during our regulatory activities. The reviews are informed by analysis of qualitative and quantitative information, and comparative case studies.

b. In relation to the four measures of success, our targets include:

Measure 1

Failures in care, or harms to residents where there are gaps in RN coverage are minimised.

Measure 2

Unmanaged risks to residents and non-compliance are identified and remedied through regulatory action and engagement with providers preventing future harms.

Targets

- 100% of providers non-compliant with 24/7 RN and care minutes responsibilities are risk profiled, and risk assessed.
- Of the providers placed under active supervision directly as a result of risk profiling or risk assessment, 100% are subject to a proportionate regulatory action and/or engagement about their performance.

Measure 3

Gaps in RN coverage and shortfalls against care minutes targets reduce as the regulatory oversight (including funding arrangements) incentivises providers to deliver 'best efforts' in ensuring RN coverage.

Target

- Decrease in non-compliance by provider cohort.

Measure 4

Sector capability and understanding of provider workforce-related responsibilities increases, with a greater focus by governing bodies on effective workforce management and planning, supporting readiness for implementation of the strengthened Quality Standards under the new Aged Care Act.

Targets

- 80% of surveyed stakeholders report satisfaction with engagement activities.
- 80% of user feedback rates the Commission's education resources as effective and engaging.

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PDR Number: IQ24-000220

Findings from June 2024 post-implementation review

Written

Chair: Linda Burney

Question:

3. The ACQSC's regulatory approach provided for a post-implementation review to be conducted in June 2024.

What has this review involved and what has it found?

Answer:

3. The review has involved qualitative analysis of written assessments of performance, quantitative analysis of data including 24/7 RN and care minutes data, and development of comparative case studies.

High level findings in relation to the 4 measures of success include:

Measures 1 and 2

The Commission is targeting non-compliant providers and successfully applying a risk-based and proportionate regulatory response. **(Targets met)**

All unmanaged risks have been addressed using a proportionate regulatory response. **(Target met)**

- As at 8 October 2024, we have conducted over 255 targeted activities under the 24/7 RN program with 9 services found to be non-compliant with one or more requirements of the Quality Standards, with a Directions Notice to improve their plan for continuous improvement issued to 7 providers.

- 24/7 RN non-compliance is an important indicator of service-level risk, with the number of risks/issues (identified by the Commission's targeted monitoring) increasing with increasing distance from compliance (i.e. larger gap in RN coverage increases risk).
- Where there was evidence that providers were impacted by systemic workforce shortages, the Commission provided education and monitored providers on alternative clinical care arrangements while they worked to comply with the workforce coverage target.
- Risks/issues identified at services that are non-compliant with the 24/7 RN responsibility are linked to governance risk drivers including Corporate governance and Clinical governance. Services that improve their compliance do so because they implement strategies that address these governance issues.
- The Commission has engaged with 439 providers operating 1,630 services with the largest care minutes shortfalls through CEO-level meetings and writing to providers to incentivise compliance.
- Performance Assessments are conducted at high-risk services against specific Quality Standard Requirements, with non-compliance managed through active supervision.
- Targeted activities have reduced risks identified at services as providers responded quickly to address and resolve the concerns.

Measure 3

There has been an increase in the number of services complying with the 24/7 RN responsibility since the requirement came into effect (from 87.8% of services in October 2023 to 93.02% in September 2024). **(Target met)**

There has been an increase in the number of services delivering their target care minutes (an 18.9% increase from 883 to 1,050 services) between Q2 and Q4.

The number of services with the largest shortfalls decreased by 53.3% (from 319 services to 149) between Q2 and Q4. **(Target met)**

Measure 4

84% of respondents rated our most recent communications product (webinar) as useful or very useful. **(Target met).**

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PDR Number: IQ24-000221

New measures and their affect regulatory outcomes

Written

Chair: Linda Burney

Question:

4. The Aged Crae Quality and Safety Commission (ACQSC) advised the ANAO that it 'considers it prudent to gain experience from early regulatory activity in relation to care minutes and 24/7 RN to better understand how the new measures affect regulatory outcomes before formulating metrics to evaluate the extent to which the measures affect regulatory outcomes'.

Can you explain how the ACQSC will understand how new measures affect regulatory outcomes before having metrics to evaluate this?

Answer:

4. The Commission considers evaluating our regulatory response to provider workforce-related responsibilities to be vitally important to support continuous improvement, accountability and sound decision-making by providers.

Our intention is to understand how the new measures are driving provider behaviour, to inform our regulatory activities and develop metrics to help us evaluate how these behaviours change over time. These are in support of the measures described in question 2.

Risk profiling is used to develop concepts or hypotheses to test and target our regulatory efforts to where we see the greatest potential risk for and impact on older people.

We test the effectiveness of our risk profiling through implementing targeted programs of regulatory engagement including active supervision of poor performing providers, and then generate and verify findings.

Analysis of quantitative and qualitative data, and comparative case studies, are central to evaluating and continuously improving the Commission's risk profiling and regulatory response to non-compliance with 24/7 RN and care minutes responsibilities.

We can then use validated risk profiles to measure regulatory outcomes across quarters and adjust our approach accordingly.

This approach allows us to use meaningful metrics and measures that supplement and inform our consideration of targets.

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22 November 2024

PDR Number: IQ24-000222

Legislation in relation to measurement of data and impact into the regulatory framework

Written

Chair: Linda Burney

Question:

5. The Aged Care Quality and Safety Commission (ACQSC) advised the ANAO that the reform of the Quality Standards and the introduction of a new Aged Care Act presented an opportunity to embed the collection and measurement of data about regulatory impact into the regulatory framework.

How does the new legislation provide for the ACQSC to embed the collection and measurement of data about regulatory impact into the regulatory framework?

Answer:

5. The Commission has undertaken a significant reform program to support the implementation of the new Aged Care Act.

The Strengthened Quality Standards will come into effect alongside the new Aged Care Act. The Commission's reform program has included developing a revised audit methodology as well as guidance documents, tools and templates for auditors and providers in readiness for implementation of the legislation.

The revised methodology will provide for graded assessments against the Strengthened Quality Standards and the detailed Outcome statements that support the Standards.

Audit gradings are described as: Exceeding; Conformance; Minor non-conformance; Major non-conformance.

We are investing in a range of business enablers to support end to end audit processes. This includes: the introduction of a new digital audit tool to support planning, evidence and data collection, and reporting; a new case management system; and data models, which are being designed to analyse the information and data.

Over time, collection of information and data about graded assessments against the outcomes in the Strengthened Quality Standards will support the Commission to differentiate more clearly the performance of different providers and drive continuous improvement across the sector.

The Commission is developing its evaluation function, and to date has established a small specialist evaluation team, created an Evaluation Framework, and established a Sector Risk Committee which provides governance for the Commission's risk treatment plans (including incorporating measures of success). While the function will take time to mature, it leverages the Commission's existing capability in data and analytics and performance measurement.

The Commission's aim over the next 24 months is to embed the evaluation function into Commission BAU and have evaluation planning and delivery as a core component of campaign and targeted risk treatment work.

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22 November 2024

PDR Number: IQ24-000226

Advancement of risk profiling of providers in relation to care minutes and 24/7 RN

Written

Chair: Linda Burney

Question:

6. The Aged Care Quality and Safety Commission (ACQSC) secured funding to employ a data scientist to undertake risk profiling of services.

How has the risk profiling of providers in relation to care minutes and 24/7 RN advanced since the audit?

Answer:

6. Intelligence briefs inform our understanding of service and provider risk and provide a view of sector performance over time. These intelligence briefs include the use of risk profiling, which helps us assess the likelihood that a provider is managing risks and making efforts to meet its workforce related responsibilities.

Funding to engage a data scientist has allowed us to further enhance our standard operating procedures and our risk profiling.

We have gained insights into causation and refined the profiling by comparing performance of geographically proximate services (the nearest neighbours), expenditure on direct care, and trend data to identify and target persistent sustained, unexplained poor performing providers.

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22 November 2024

PDR Number: IQ24-000223

Improvement of documentation of processes for preparing and disseminating intelligence reports

Spoken

Senator: Linda Reynolds

Question:

Senator REYNOLDS: In relation to that issue, could I go to the commissioner. Commissioner, what are your thoughts on this issue? We're talking about the RPAT and the RIS, but also there are a lot of other processes and procedures that need to go into place and actually be implemented. So what are your thoughts about the challenge ahead?

Ms Anderson: May I start with a specific response in order to cover it off. We find ourselves before you because of the Auditor-General report No. 8. That had two recommendations in it for the commission and we have acquitted both. We have completed implementation on both those recommendations. The first one had to do with improving our documentation of processes for preparing and disseminating intelligence reports. We have done that, and we have exceeded that target quite extensively by also producing a range of other documents. I can provide them on notice if you want. It's technical detail, but we have doubled down and ensured that we have delivered against that recommendation.

Answer:

The Auditor-General's Report No. 8 in 2023-24 found that our processes for producing and disseminating regulatory intelligence briefs were insufficiently documented.

We have since met recommendation 3 in Report No. 8, and have finalised standard operating procedures and work instructions for preparing and disseminating intelligence briefs.

Further enhancements to our documentation include:

- Technical procedures for the Risk Based Targeting and Information Sharing (RBTIS) system, which is the Department and Commission IT system that hosts 24/7 RN and care minutes data
- Processing, sanitising and validating data
- Triage criteria and classification into high, moderate and low risk providers
- Longitudinal analysis of provider performance
- Summary intelligence assessments
- Quality control and dissemination of intelligence briefs.

Early in 2025, calculations for services' 24/7 RN and care minutes performance will run automatically in RBTIS, reducing manual data collation, increasing the timeliness of risk profiling, and minimising the risk of error.

The inclusion of 24/7 RN and care minutes data into RBTIS supports broader profiling of provider and sector risk, leading to improved regulatory oversight and response.

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PDR Number: IQ24-000224

Care minutes

Spoken

Senator: Linda Reynolds

Question:

Senator REYNOLDS: Thank you. This is probably a bit of an odd question, but, given the challenges health have now got in aged care, in actually implementing this very significant package of reforms, is there anything that is coming out of that audit, more widely, that might be of benefit to health?

Ms Chalmers: It's difficult for us to discuss that given that it's an ongoing audit. But that audit will be tabled in April 2025, I believe.

Senator REYNOLDS: In relation to that issue, could I go to the commissioner. Commissioner, what are your thoughts on this issue? We're talking about the RPAT and the RIS, but also there are a lot of other processes and procedures that need to go into place and actually be implemented. So what are your thoughts about the challenge ahead?

Ms Anderson: May I start with a specific response in order to cover it off. We find ourselves before you because of the Auditor-General report No. 8. That had two recommendations in it for the commission and we have acquitted both. We have completed implementation on both those recommendations. The first one had to do with improving our documentation of processes for preparing and disseminating intelligence reports. We have done that, and we have exceeded that target quite extensively by also producing a range of other documents. I can provide them on notice if you want. It's technical detail, but we have doubled down and ensured that we have delivered against that recommendation. The second of the two recommendations applying to the commission was that we would identify a method to assess the impact of care minutes in 24/7 RN on quality outcomes and whether regulatory activities were effective at promoting compliance with these measures. That is a worthy recommendation. There is a lot in that. Senator, I note our time is short, but I have two parts to my answer, briefly. The first part is: we have acquitted that recommendation also. We have delivered on that.

Answer:

Since June 2024, the Commission has been targeting a group of providers that reported the largest shortfalls in one or both of the care minutes targets at one or more of their services. That is, where those providers that have reported shortfalls that are:

- 30+ minutes for the total care minutes target and/or
- 15+ minutes against the RN care minutes target.

Performance improvements are apparent within this group. The number of services with the largest shortfalls decreased by 53.3% (from 319 services to 149) between Q2 and Q4.

Improvement has also been seen in the services with lower levels of non-compliance.

The Commission defines lower-level non-compliance as:

- < 20 minutes against the total care minutes target and/or
- < 10 minutes against the RN care minutes target.

Moderate non-compliance is defined as:

- 20-30 minutes shortfall against the total care minutes target and/or
- 10-15 minutes against the RN care minutes target.

The Commission sent targeted letters to providers of services that reported lower to moderate shortfalls in Quarter 2 2024-25 to incentivise compliance. The letters clearly set out our expectations and the consequences for providers of inaction over subsequent quarters.

Between Quarter 2 and Quarter 4, there was a 20.5% reduction in the number of services with moderate non-compliance (from 303 to 241 services) while the number of services with lower levels of non-compliance increased from 1,105 to 1,154 services (a 4.4% increase). This demonstrates the progress being made by many providers in addressing their care minutes shortfalls.

Compliance with care minutes targets has also increased. There was an 18.9% increase in the number of compliant services (from 883 to 1,050 services) between Q2 and Q4.