

GAYLE'S LAW POLICY AND PROCEDURE CHECKLIST TOOL

The Health Practitioner Regulation National Law (South Australia) (Remote Area Attendance) Amendment Act 2017, more commonly referred to as 'Gayle's Law' came into operation on 1 July 2019.

Gayle's Law aims to provide better protection for health practitioners working in remote areas of South Australia, following the tragic death of Mrs Gayle Woodford, a nurse working in remote South Australia.

Under Gayle's Law, any health practitioner who attends an out of hours or unscheduled callout in a remote area of South Australia must be accompanied by a second responder (safety worker). The second responder accompanies the health practitioner on these types of callouts to reduce the chances of personal attack.

A review of Gayle's Law was undertaken and completed on 7 May 2021. In response to Recommendation 1.2 of the review this checklist tool has been developed to assist health service providers subject to Gayle's Law ensure that their Policies, Procedures and Guidelines meet the mandates prescribed by Gayle's Law.



SECTION 1: **MANDATED** (required by law) REQUIREMENTS FOR INCLUSION IN POLICIES, PROCEDURES AND GUIDELINES FOR HEALTH SERVICES SUBJECT TO GAYLE'S LAW

1 Your policies, procedures and guidelines (PPGs) must include provisions to manage risks to the safety and security of health practitioners. The following guidance provides some questions to guide the development of new or the revision of existing PPGs:

1.1 Do your PPGs distinguish between assessment of risk of health practitioner safety and clinical risk?

YES [] NO []

1.2 Do your PPGs contain instruction to undertake a clinical risk assessment to determine whether attendance is required by anyone, not (just) the need for a second responder (safety worker).

YES [] NO []

1.3 Do your PPGs contain an instruction to undertake a clinical assessment to determine if the situation is an emergency/urgent (if a callout is required), or whether the service could be provided during normal business hours or at a hospital/health clinic?

YES [] NO []

1.4 Do your PPG's clearly describe that the trigger for a second responder (safety worker) to accompany the health practitioner during a callout is the health practitioner's decision to attend the callout?

A second responder should attend all callouts under Division 2 of the Act, there is no threshold at which a second responder is not required when responding to an out of hours or unscheduled callout.

YES [] NO []

1.5 Do your PPG's contain mechanisms to ensure the safe return home (or to another destination) of both the health practitioner and second responder?

YES [] NO []

2 Your PPG's must provide information regarding the explicit prohibition of health practitioners being directed to attend callouts without a second responder.

2.1 Do your PPGs prohibit any person from directing or requiring a health practitioner (to whom Division 2 of the Act applies to) attend a callout in breach of section 77E(1) of the Act?

YES [] NO []

3 Do your PPG's provide information regarding limitations of liability for not attending a callout if a second responder (safety worker) is unavailable?

A health practitioner or other person who complies with the requirements of Gayle's Law (Part 5A) cannot by virtue of doing so, be held to have breached any code of professional etiquette or ethics, or to have departed from any accepted form of professional conduct.

To the extent that the health practitioner has acted in good faith and without negligence, incurs no civil liability in respect of such compliance.

YES [] NO []

4 Do your PPG's address the following criteria for the selection of second responders (safety workers) under Regulation 11D?

A second responder must:

- > hold a current Australian driver's licence; and*
- > have been subject to a working with children check (within the meaning of the Child Safety (Prohibited Persons) Act 2016) within the preceding 5 years; and*
- > not be prohibited from working with children under the Child Safety (Prohibited Persons) Act 2016 or a law of the Commonwealth or of another State or Territory.*

YES [] NO []

5 In the event that a second responder is not available as detailed in sub-regulation 11 (D)(2). Do your PPG's provide the following guidance to allow an alternative companion to attend to ensure the safety of the health practitioner?

- > The health practitioner has taken all reasonable steps to engage a second responder or a person who satisfies the requirements (as set out in regulation 11(D)(2)), but has been unable to do so; and*
- > The health practitioner believes on reasonable grounds that the risk to the health of a person to whom health services are to be provided in relation to the callout is high; and*
- > The person is known to the health practitioner and is, in the opinion of the health practitioner, a suitable person to be engaged as a second responder in the circumstances.*

YES [] NO []

6 Do your PPG's have mechanisms to ensure and monitor compliance with the requirements of Gayle's Law?

YES [] NO []

If your policies, procedures and guidelines do not include the mandated requirements stated above you must update your PPGs to address these points.

It is a legislative requirement that all PPG's are reviewed at least once every 5 years.

SECTION 2: GAYLE'S LAW REVIEW DISCRETIONARY SAFETY RECOMMENDATIONS FOR THE CONSIDERATION OF HEALTH SERVICE PROVIDERS

As part of the Independent Review of Gayle's Law, the following safety recommendations were made as a part of Recommendation 1.2. These will be considered by Government in consultation with stakeholders. They are **not mandated** by legislation or regulations, but can be considered in the development of policies, procedures and guidelines at the health service provider's discretion.

Safety recommendations in relation to second responder (safety workers)

A. Do your policies, procedures and guidelines ensure that health practitioners are always accompanied by a second responder (safety worker), including:

- > When attending both unscheduled and scheduled callouts at any time of the day or night;

YES [] NO []

- > During the journey to all callout locations;

YES [] NO []

- > In the untoward event that health services are delivered at the health practitioner's home/accommodation, and

YES [] NO []

- > On all other occasions of health services delivery in a remote area where there is an identified risk to personal safety, irrespective of location and inclusive of the health services facility.

YES [] NO []

Safety recommendations around presentations for health care at a health practitioner's/second responder's home

B. To decrease the risks posed by presentations for health care at the health practitioner's (or second responder's) home/accommodation, do your policies, procedures and guidelines:

- > Preclude delivery of health care at the health care practitioner's or second responder's home at any time of the day or night.

YES [] NO []

C. To decrease the risks posed by presentations for health care at the health practitioner's (or second responder's) home/accommodation, has your organisation:

- > Implemented communications systems that replace the need for in-person callout requests.

YES [] NO []

- > Co-designed a communication strategy with community members to change the practice of attending the health practitioner's home to request care at any time of the day or night.

YES [] NO []

As noted at the beginning of this section Safety Recommendations A to C are not mandated but are suggested by the review report for consideration of health service providers for inclusion in their policies, procedures and guidelines.

DEFINITIONS

Health Practitioner – is taken to include any person registered under the Health Practitioner Regulation National Law 2010 and any person who provides a health service as defined under the Health Practitioner National Law 2010.

This includes a practitioner in the following health professions: Aboriginal and Torres Strait Islander health practice; Chinese medicine; chiropractic; dental; medical; medical radiation practice; nursing; midwifery; occupational therapy; optometry; osteopathy; paramedicine; pharmacy; physiotherapy; podiatry; and psychology.

And also any person who provides the following health services: services provided by registered health practitioners; hospital services; mental health services; pharmaceutical services; ambulance services; community health services; health education services; welfare services necessary to implement any services referred to above; services provided by dietitians, masseurs, naturopaths, social workers, speech pathologists, audiologists or audiometrists; and pathology services.

Second Responder: The Act does not define a second responder but it is taken to mean a trusted community member. It could be a person from the local community, another employee of a health service, or another Government employee. Second responders may be paid employees or volunteers. Under the regulations a second responder must:

- > have a current driver's licence; and
- > have a working with children check; and
- > not be prohibited from working with children.

There are circumstances where these requirements do not apply. A health practitioner may engage an alternative second responder where:

- > a designated second responder is not available;
- > the alternative second responder is known to the health practitioner and is, in the opinion of the health practitioner, a suitable person to be engaged on a one-off basis as a second responder;
- > the risk to the health of the patient is high – i.e. attendance/treatment cannot be delayed until normal operating hours of an available clinic, or for more than 24 hours.

Out of Hours callout – request for attendance of a health practitioner between 5:00pm and 8:00am, or anytime on a Saturday, Sunday or public holiday.

Unscheduled Callout: A request for attendance of a health practitioner within 24 hours in a remote area. Unlike an out of hours callout (which occurs between the hours of 5.00pm on one day and 8:00am on the next day or any time on a Saturday, Sunday or public holiday), an unscheduled callout may occur at any time.

For more information

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