Registration with the Care Quality Commission and Nurses Agencies and Domiciliary Care Agencies:

What it means for agencies and for people who use services

This information is believed to be correct on the date of publication. Detailed specialist advice should always be obtained before taking or refraining from any action as a result of the comments made in this publication, which are only intended as a brief introduction to the role of the CQC. The CQC is the ultimate authority on whether registration is required in any circumstances, and should always be consulted, along with their own published guidance.

Introduction

This guide is to help people who run and work for Nurses Agencies and Domiciliary Care Agencies to understand whether they need to register with the Care Quality Commission (CQC) under the Health and Social Care Act 2008. The scenarios in this guide provide guidance about when Agencies and individuals may need to register with CQC. It provides information for people who use services so that they know where they can go if they are concerned about care provided by nurses and carers who work for, or are introduced to them, by an Agency.

The Care Quality Commission

The Care Quality Commission (CQC) is the independent regulator of health and adult social care in England. It aims to make sure better care is provided for everyone, whether that’s in hospital, in care homes, in people’s own homes, or elsewhere. CQC regulates health and adult social care services, whether provided by the NHS, local authorities, private companies or voluntary organisations. CQC also protects the rights of people detained under the Mental Health Act 1983.

The previous Care Standards Act 2000 system of categorising providers by organisation type or service type will no longer apply from the 1st October 2010. There will be no categories for domiciliary care, care homes and so on; the need for registration will depend on the regulated activities carried on by the service provider. The Health and Social Care Act 2008 (Regulated Activities) Regulations 2010 set out the regulated activities that require registration by a service provider under the new system. Subject to the various exceptions, a provider of any of these regulated activities must register. For a more general background to the new registration system, please read the CQC booklet: A new system of registration. Guide for providers of healthcare or adult social care, available from:
What does this mean in practice for Nurses Agencies and Domiciliary Care Agencies?

The key principle is that any individual or organisation that provides a regulated activity must be registered with the Care Quality Commission. This means that agencies which act as employment agencies, supplying staff to organisations that carry on regulated activities, but do not provide any regulated activities themselves are exempt from registration. This also applies in most instances when agencies supply staff to work for people in their own homes.

It's also important to note that the services being commissioned are subject to change and that it is always best to check with the CQC whether or not you should be registered based on the service that you have been commissioned to provide.

Where an agency employs staff to carry out regulated activities and is actively involved in providing the regulated activities, then the agency should register with CQC. For example, a domiciliary care agency that carries out the assessment of a service user’s needs, draws up a care plan, employs and pays the carers, reviews their performance, and liaises directly with the person who uses the service (or the commissioner of the care) about the quality of the service.

We have identified different scenarios in which a service provider may find themselves, and provided guidance on when they may need to register with CQC, what other regulations apply, and where people who use services can go if they are concerned about the care they receive.

*Please note that in accordance with the Health and Social Care Act 2008 and the Local Authority Social Services and NHS Complaints regulations 2009, CQC cannot consider individual complaints about the services they regulate. However, CQC would like to hear about people’s experiences and encourages people to share information with them. Please refer to the guidance at:* [http://www.cqc.org.uk/contactus/howtoraiseaconcernorcomplaint.cfm](http://www.cqc.org.uk/contactus/howtoraiseaconcernorcomplaint.cfm)
SCENARIO 1: 
AN INDIVIDUAL LIVING IN THEIR OWN HOME EMPLOYS A REGISTERED NURSE, WHO HAS BEEN INTRODUCED TO THEM BY AN AGENCY.

a) Does the registered nurse need to register with CQC?

If the registered nurse is providing a regulated activity such as ‘treatment of disease, disorder and injury’ or ‘diagnostic and screening procedures’ they DO need to register with CQC. If for any reason the registered nurse is only providing the regulated activity ‘personal care’, they do NOT need to register with CQC. However, it is always best to check with CQC.

b) Does the agency need to register with CQC?

As long as the agency is not employing the nurse to provide the care to the individual on behalf of the agency, then the agency does NOT need to register; the agency is not providing the regulated activities.

c) What other regulations apply?

There are other regulations which apply to Agencies and individual Registered Nurses.

- Employment Agencies and Employment Businesses Regulations 2003
- All nurses should be registered with the Nursing and Midwifery Council (NMC) which ensures that they are properly qualified and competent to work in the UK. You can find out more about the NMC here: http://www.nmc-uk.org/

d) Who can the private individual and/or their representative complain to if they are concerned about the care they receive? These include:

- The Agency which provided the introduction
- The Employment Agencies Standards Inspectorate if they are concerned about the Agencies practices. You can find out more information from here: http://www.bis.gov.uk/policies/employment-matters/eas
- The Nursing and Midwifery Council [as above]
- The Care Quality Commission, if the nurse should be registered with CQC under HSCA, but is not. You can find out more information from here: http://www.cqc.org.uk/
SCENARIO 2:
A NURSES’ AGENCY WHICH PROVIDES NAMED NURSES TO AN NHS
ACUTE TRUST ONLY, AND HAS NO RESPONSIBILITY FOR INDUCTION,
TRAINING, APPRAISAL, PERFORMANCE, etc., BUT PAYS THE NURSES

a) Does the agency need to register with CQC?

The agency does NOT need to register with CQC as they are not directly carrying on a regulated activity. The agency supplies nurses to the NHS trust, which is carrying on regulated activities, to support the trust in carrying on their service. The NHS trust is responsible for ensuring that they have a contract in place which makes sure appropriate checks are undertaken, and is accountable for any failures in care delivered.

SCENARIO 3:
A NURSES’ AGENCY WHICH PROVIDES NAMED NURSES TO AN NHS
ACUTE TRUST AND HAS RESPONSIBILITIES FOR INDUCTION, TRAINING,
APPRAISAL, PERFORMANCE MANAGEMENT ETC., AND PAYS THE
NURSES

a) Does the agency need to register with CQC?

The Agency does NOT need to register with CQC on the basis that whilst it provides staff for the NHS trust, it is not carrying out any regulated activities. The NHS trust is carrying on the regulated activities for which it has used the Agency to source the staff. The NHS trust is responsible for ensuring that they have a contract in place which ensures that appropriate checks are undertaken, and the NHS trust is accountable for any failures in care delivered.

FOR SCENARIOS 2 & 3:

b) What other regulations apply?

Employment Agencies and Employment Businesses Regulations 2003
NMC [as above]

c) Who can the patient and/or their representative complain to if they are concerned about the care they receive? These include:

- Ward or unit manager.
- The NHS internal complaints service. You can find out more information from here: http://www.nhs.uk/chq/Pages/1084.aspx?CategoryID=68&SubCategoryID=162
- CQC in the event that the Trust fails to comply with the regulation on managing complaints. You can find out more information from here: http://www.cqc.org.uk/
- Local Involvement Network which will feed back to CQC. You can find out more information from here: http://www.nhs.england/nhsengland/links/pages/links-make-it-happen.aspx
- The Health Service Ombudsman. You can find out more information from here: http://www.ombudsman.org.uk/
- Local Independent Complaints Advocacy Service (ICAS). You can find out more information from here: http://www.seap.org.uk/icas/
SCENARIO 4:
A NURSES' AGENCY PROVIDES NAMED NURSES TO A PRISON* AND HAS RESPONSIBILITIES FOR INDUCTION, TRAINING, APPRAISAL, PERFORMANCE MANAGEMENT etc., AND PAYS THE NURSES

a) Does the agency need to register with CQC?

The agency does NOT need to register with CQC as it is providing staff, not carrying on any regulated activities. The provider of the regulated activities could be the prison itself, an independent healthcare provider, or the local primary care trust, which have used the agency to supply appropriate staff.

b) What other regulations apply?

Employment Agencies and Employment Businesses Regulations 2003
NMC [as above]

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Employment Agencies and Employment Businesses Regulations 2003
NMC [as above]

C) Who can the patient and/or their representative complain to if they are concerned about the care they receive? These include:

- The registered service providing the care within the prison.
- CQC in the event that the registered provider fails to comply with the regulation on managing complaints
- HM Inspector of Prisons [link provides information on HM Inspector of Prisons]

* Please note that the situation for prisons is subject to change.