



Submission to the Commerce Commission on the 111 Contact Code Review

Submission by: Ryman Healthcare

Date: February 29, 2024

Subject: Feedback on Draft 111 Contact Code Review - Application to Residential Care and Assisted Living Facilities

Introduction

Ryman Healthcare Limited (**Ryman**) is a leading provider of retirement living and aged care options in New Zealand and Victoria, Australia. Ryman's 40 New Zealand villages are home to approximately 12,000 residents, of which approximately 6,000 live independently, 3,000 live in serviced apartments and 3,000 live in our care centres in either rest home, hospital or specialist dementia care.

Ryman welcomes the opportunity to provide feedback on the *[Draft] Commission 111 Contact Amended Code 2023* (the **Code**). We acknowledge the important purpose of the 111 Contact Code, being to ensure vulnerable consumers have reasonable access to an appropriate means to contact the 111 emergency service in the event of a power failure, as stated in s 238(1) of the Telecommunications Act 2011. However, we believe the current draft raises concerns for our specific operating model and existing robust safety measures already achieving the intent of the Code.

In the first instance, we do not support the Code's extension to include residential care and assisted living facilities on the basis operators already have legal and compliance obligations protecting vulnerable residents, and we do not feel the Code adds value or protections for our residents.

In the second instance, we propose the Code is amended to accommodate other effective means of emergency management and decrease the risk of both compliance burden and inconsistent application by operators.



A. Overview of Legal Framework

1 Age-Related Residential Care

Age-related residential care (**ARC**) is clinical care for those in dependent living. At Ryman this includes rest home, hospital and dementia care. Legislation dictates the specific residential care services, facilities, and staffing levels in places where operators offer residential care. These regulations are reinforced by standards concerning staffing, accreditation, audits, as well as procedures for complaints and investigations.

This care is pursuant to Age-Related Residential Care Services (**ARRC**) agreements between each village entity and Health New Zealand – Te Whatu Ora (**HNZ**). The ARRC agreement sets standards and parameters within which to provide specified age-related residential care services. To ensure the ARRC agreement requirements are being met and that care is of a high standard, regular and spot certification audits are done by HNZ.

Relevant requirements of the ARRC agreement includes Clause D19.6 whereby an operator must institute a Major Incident and Health Emergency Plan and associated emergency management to ensure vulnerable residents are cared for in major incidents, including in power failure.

The following also applies to the provision of healthcare in the aged care industry:

- Residential Care and Disability Support Services Act 2018 (in force from 26 November 2018, and replacing the Social Security Act 1964)
- Health and Disability Services (Safety) Act 2001
- Health and Disability Services Standards (NZS 8134:2008)
- Health and Disability Commissioner Act 1994 (and the Code of Health and Disability Services Consumers' Rights)

Accordingly, there is already an overarching compliance framework protecting vulnerable consumers and ensuring their access to appropriate healthcare in the ARC setting.

2 Retirement Village

Retirement villages provide independent living for elderly people. The relevant legislation is the Retirement Villages Act 2003, which sets out obligations for retirement village operators and, importantly, the rights of residents. We do not consider it to be clear whether the Code will apply to retirement village residents also, not being residential care and assisted-living.



B. Key Issues and Feedback

1. Applicability of the Code to Ryman Residents

The Commerce Commission have identified three scenarios in which residents living in residential care and assisted living facilities obtain retail landline services:

- a) the facility purchases retail landline services, then sells these services to residents with a separate invoice to other costs,
- b) the facility purchases retail landline services, includes a phone in the resident's room and includes the cost in one bill along with other living costs, or
- c) the facility does not offer retail landline services and the residents instead purchase their own from a retail service provider.

We respond to the Commission's draft view that scenarios a) and b) above would be brought into the Code, as the facility is the party who is holding the direct billing relationship with the end-consumer.

Independent Living: In situations where Ryman on-sells communication services, acknowledgement is needed that nurse-call systems (operating 24/7) offer equivalent means of contacting emergency services as a medical alarm. Currently medical alarms with battery back-up are specified in the code as an example of a suitable means of communicating in power outages but the site-wide nurse-call systems (with battery back-up) common in retirement villages are not referenced and as such, may not meet the Commission's requirements. The Code should be amended by adding to the examples and/or definitions to include these safety measures. People living within Ryman retirement villages are in a very different scenario to vulnerable members of the general public who may be isolated in an emergency.

Aged Care and Assisted Living: Residents in care centres and serviced apartments are cared for 24/7 and as according to their level of need. Our obligations to care for the wellbeing of residents is governed by the legislation and regulations referenced at paragraph A1 above. To meet these duties, we have round-the-clock staff support, various phone and online communication systems and robust emergency management procedures and team training.

For care and assisted living residents, their primary means to request emergency assistance is via our 24/7 nurse call systems or trained team members, who then contact emergency services if required.

Ryman villages also have back-up power generators, defibrillators, smoke detectors and heat-activated sprinklers, a 'NeverAlone' system which alarms when no movement is sensed for a period of time, Fire Safety and Civil Defence training for residents, emergency assistance policies and procedures, and 24/7 staffing. For these reasons, this type of managed residential healthcare environment should be made exempt from the requirements of the Code.



Even in a situation where the resident were being charged for phone services, they were deemed vulnerable, and they personally had no other means of contacting 111 in a power outage, due to the nature of the environment, 24/7 care services available and 24/7 nurse-call technology, these people would not be in a situation where they were unable to access 111 services, whether directly or indirectly.

2. Definition of "Vulnerable Consumer"

Vulnerable consumer means a consumer of a retail landline service, who:

is at particular risk of requiring the 111 emergency service; and

does not have a means for contacting the 111 emergency service that can be operated for the minimum period, in the event of a power failure.

We acknowledge by the very nature of our operations, our residents meet the first part of the definition, however the current definition of vulnerable consumer leaves room to interpret "means" which could lead to inconsistent outcomes for residents across the industry. We submit that the Commerce Commission agree that to satisfy the intent of the code, solutions such as Ryman's extensive 24/7 nurse-call systems and 24/7 staff presence are taken into consideration and that this is made clear in the wording. We propose incorporating "access to reliable alternative emergency communication channels, including indirect means of contacting 111" into the definition.

3. "Appropriate Means" of Contacting 111

We suggest that Ryman's existing systems and procedures, including 24/7 nurse-call systems, staff support, and backup power, already constitute "appropriate means" for residents to contact emergency services, particularly during outages.

This approach aligns with the Code's intent of ensuring resident safety without creating unnecessary regulatory burdens.

4. Effectiveness of Proposed Changes

While we certainly support the Code's objective, the proposed changes fail to clarify how the Code applies to the retirement village and aged care industry. The Code might not be interpreted and applied as intended, creating inconsistencies across the aged care industry.

We advocate for a more nuanced approach that recognises existing extensive safety measures in use for residents of aged care which satisfy the Code's intent and often are mandated under industry regulations.



5. Suggested Improvements

- Clarify the Code's application to different resident categories in retirement villages and aged care facilities based on a broader concept of risk and existing risk-mitigations.
- Refine the definition of "vulnerable consumer" to consider existing safeguards and access to 111 or emergency services via alternative communication channels, and not just direct 111 calling.
- Recognise existing robust safety measures like 24/7 nurse-call systems and 24/7 staff support as "appropriate means" for contacting emergency services.
- Encourage industry-wide collaboration to develop a consistent and practical approach that ensures resident safety without unnecessary regulatory burdens.

Conclusion

Ryman Healthcare is committed to resident safety and maintains comprehensive emergency response procedures. We believe the proposed amendments to the 111 Contact Code, with the suggested clarifications and improvements, can achieve the Code's objectives without creating undue regulatory burdens or inconsistencies within the retirement village and aged care industry. We welcome further dialogue and collaboration to ensure the best possible outcomes for all residents.

Contact

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Kind Regards,



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