

Frequently asked questions about Gayle's Law

What is Gayle's Law?

The South Australian Parliament passed Gayle's Law in response to the tragic death of Gayle Woodford, a dedicated nurse who was murdered in 2016 while working in a remote community in South Australia.

When did Gayle's Law commence?

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.

What does Gayle's Law mean for service providers?

Health service providers that employ health practitioners in a remote area must ensure a second responder accompanies a health practitioner when attending an out of hours callout or unscheduled callout.

There are only two circumstances under which a health practitioner who is attending an out-of-hours or unscheduled callout in a remote area can attend without a second responder (see below).

Service providers must have policies and procedures in place for the safety and security of health practitioners. These policies and procedures must address the requirements outlined in section 77H of the Act, and regulation 11G (see below).

Are there Regulations under Gayle's Law?

Yes. The current Regulations came into operation on 7 November 2019. They replace earlier ones that were made on 1 July 2019 and disallowed on 16 October 2019.

Are there circumstances where a second responder is not required to attend?

The regulations prescribe two circumstances under which a health practitioner may attend a callout in a remote area without a second responder. These circumstances are:

1. when the callout is to a police station where a police officer or special constable will be present for the duration of the callout; and
2. when the callout is in response to an emergency (e.g. a roadside accident) and an emergency services worker (other than the health practitioner) will be present for the duration of the callout.

What arrangements are required for second responders?

It is up to health services to determine the working arrangements for second responders. It is expected that health services will outline their local arrangements for the engagement of

Frequently asked questions

second responders in their policies and procedures. Second responders may be paid employees or volunteers.

Under regulation 11D second responders must have:

1. a current Australian driver's licence;
2. a working with children check; and
3. must not be prohibited from working with children.

What if a designated second responder is not available?

Under regulations 11D(3) and (6), if a designated second responder is not available, a health practitioner may engage an alternative second responder if:

1. the health practitioner has taken all reasonable steps to engage a designated second responder and has been unable to do so;
2. the health practitioner knows the alternative second responder and considers them to be a suitable person to be engaged on a one-off basis; and
3. the health practitioner believes that the risk to the health of the patient is high - the risk is only considered high where treatment cannot be delayed until normal operating hours of an available clinic or for a period of more than 24 hours.

How are second responders protected under the law?

People who are employed as second responders, or who are employed in other positions and undertake the duties of a second responder are protected as employees.

Volunteer second responders, including alternative second responders, are considered to be volunteers under the law. As such they should receive the same protections as other volunteers within a health service. Health services need to ensure they have appropriate insurance for these purposes.

What is the liability for health services if a health practitioner does not comply with Gayle's Law and something happens to them?

Gayle's Law does not include any penalties for a health practitioner or a health service that does not comply with the requirements.

However, in the event that a health practitioner does not comply with the law, and an adverse event happens, insurers may refuse a claim. The term 'may' is used here because ultimately the decision will be made on a case-by-case basis and in consideration of all facts and circumstances.

Similarly, for health service providers, it would be up to insurers (or Courts) to determine whether they are liable for health practitioners in their employment who do not comply with Gayle's Law. Health services may wish to discuss this matter further with their insurers.

The legislation provides for the South Australian Government not to enter into agreements or contracts with health services that do not comply with Gayle's Law.

What needs to be included in the policies and procedures under Gayle's Law?

Gayle's Law outlines specific requirements to be addressed in policies and procedures of the service. Section 77H of the Act and regulation 11G of the Regulations include the following requirements as a minimum to be covered in policies and procedures:

Frequently asked questions

- (a) a statement that the provider and any person employed by them must comply with the requirements of Gayle's Law;
- (b) a provision preventing anyone from directing or requiring a health practitioner to attend a callout without a second responder;
- (c) provisions to assist in assessing the eligibility of someone to be a second responder;
- (d) provisions to manage any risks to the safety and security of health practitioners that have been identified in relation to the delivery of health services at, or from a particular location; and
- (e) provisions to manage any risks to the safety and security of health practitioners that have been identified in relation to the delivery of health services by a specific health service provider.

These policies and procedures must be reviewed at a minimum of every five years.

If requested, health services must provide the Minister for Health and Wellbeing with a copy of their policies and procedures.

Gayle's Law applies to out of hours callouts and unscheduled callouts. I am unclear what an unscheduled callout is?

The legislation defines an **unscheduled callout** as 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.

An arranged or planned visit, including a routine visit for treatment, is not an unscheduled callout.



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