



**The Hon Jillian Skinner MP**  
Minister for Health

INQ15/33

Ms Jan Barham  
Chair  
General Purpose Standing Committee No. 3  
Parliament of New South Wales  
Macquarie Street  
SYDNEY NSW 2000



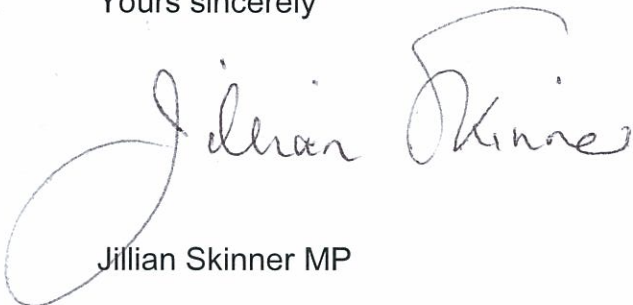
Dear Ms Barham


**Re: Inquiry into registered nurses in New South Wales nursing homes**

I am pleased to submit NSW Health's response to the inquiry into registered nurses in New South Wales nursing homes.

Should you wish to discuss NSW Health's submission, please contact Tim Jap, Senior External Relations Officer, Strategic Relations and Communications on 02 9391 9263.

Yours sincerely

  
Jillian Skinner MP

Received at 3:15 pm  
Friday 29 April 2016  


# NSW GOVERNMENT RESPONSE TO THE RECOMMENDATIONS MADE BY THE LEGISLATIVE COUNCIL INQUIRY INTO REGISTERED NURSES IN NEW SOUTH WALES NURSING HOMES

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## **Recommendation 1:**

That the NSW Government

- Establish a consistent and compatible collection and analysis of data regarding the transfer of residents from aged care facilities to emergency departments, including reasons for admission, to determine if this represents a cost shifting, and
- That this information be provided in NSW Health Annual Report to identify if further action is required

## **Response:**

Recommendation 1 arises from the Committee's concern that there is a lack of readily available information about residents transferring from aged care facilities to public hospitals. Data is collected on a local level, as are initiatives developed to prevent unnecessary transportation of residents from aged care facilities to hospitals: for example the GRACE program at Hornsby and the Geriatric Flying Squad operating out of Sutherland Hospital. The best way to address these issues is for local health districts to continue to work in their local communities with local aged care providers, rather than additional state wide data collections. This recommendation is therefore not supported.

## **Recommendation 2:**

That the NSW Government review the requirements for Advance Care Directives to be recognised when residents are transferred from aged care facilities to hospitals, and determine whether a legislative framework is required

## **Response:**

The NSW Government is committed ensuring advanced care planning is an integral element of health care planning for patients and in the community, including in aged care facilities. To this end, in 2013 the *Advanced Planning for Quality of Care at End of Life: Action Plan 2013-2018* was released. The *Action Plan* was the result of extensive work on advanced care planning and end of life care, including looking at the need for legislation. As noted in the *Action Plan*, Advance Care Directives are already lawful in NSW under a series of landmark cases in the Supreme Court, and as such there is a legislation framework is not proposed. *The Action Plan* is also designed to address the situation of residents of aged care facilities, promoting routine use of advance care planning for residents. The Plan provides for progressing changes to routine admission and discharge procedures so that prior Advance Care Plans are recognised, used and transferred between acute community and aged care settings.

## **Recommendation 3**

That the NSW Government, through the Council of Australian Governments, urge the Commonwealth Government to ensure that its new single quality aged care framework includes:

- genuinely unannounced visits that occur at any time of the day on any day of the week,
- assessment of all 44 expected outcomes under the Accreditation standards during each unannounced visit,
- greater emphasis on resident experience, and
- a requirement to communicate non-compliance with residents and their advocates.

## **Response:**

The Australian Aged Care Quality Agency Accreditation Standards and other aged care standards are currently being reviewed with a view to consolidating them into a single set of standards. This is occurring as part of an initiative under the 2015 Federal Budget. The NSW

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Minister for Health will include these recommendations in the Paper to be prepared for COAG Health Council, as set out in response to Recommendations 7, 8 and 9.

## **Recommendation 4**

That the NSW government, through the Council of Australia Governments, urge the Commonwealth Government to establish minimum staffing ratios in aged care facilities

### **Response:**

Whether minimum staffing levels would be appropriate in an aged care setting is primarily a matter for the relevant Commonwealth agency, rather than COAG. The NSW Minister for Health will refer the Parliamentary Committee Report, including this Recommendation to the federal Minister for Health and Minister for Aged Care for consideration.

## **Recommendation 5**

That the NSW Government develop a Working with Older People and / or Vulnerable Adults Check, modelled on the Working with Children Check

### **Response:**

The NSW Government supports robust mechanisms and checks to protect vulnerable groups in the community, which can include residents of aged care facilities as well as children. The Government also notes however that “working with children check” processes are generally state based, and that the Commonwealth, as part of its regulatory regime for aged care facilities, already has a national system for criminal record checking of aged care workers. The Government will therefore include this Recommendation in the issues to be raised with the COAG Health Council

## **Recommendation 6**

That the NSW government, through the Council of Australia Governments, urge the Commonwealth Government to establish, a licensing body for aged care workers

### **Response:**

The Government does not support further extending occupational licensing to include assistants in nursing or other aged care workers. In relation to the issue of standards for non-registered health workers, in April 2015 the COAG Health Council released the “*National Code of Conduct for Health Care Workers*”. The Code establishes a series of standards non-registered health workers must comply with, and is based on the current NSW Code for Non-Registered Health Practitioners. National adoption of the Code will strengthen governance in health related fields without further formal regulation.

## **Recommendation 7**

That the NSW Government:

- retain the requirement in section 104(1)(a) of the *Public Health Act 2010* for registered nurses to be on duty in nursing homes at all times, and
- amend the definition of ‘nursing home’ under the Act to read:

nursing home means a facility at which residential care (within the meaning of the *Aged Care Act 1997* of the Commonwealth) is provided, being:

- a) A facility at which that care is provided in relation to an allocated place (within the meaning of that Act) to a care recipient whose classification level:
  - i) Includes the following domain categories or combinations of domain categories
    - 1) A high Activities of Daily Living (ADL) domain category; or

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- 2) A high Complex Health Care (CHC) domain category; or
  - 3) A domain category of medium or high in at least two of the three domain categories; or
  - 4) A high behaviour domain category and either an ADL domain category other than nil or a CHC domain category other than nil; or
- ii) Is a high level resident respite care.
- b) A facility that belongs to a class of facilities prescribed by the regulations.

## Recommendation 8

That the NSW Government allow nursing homes to apply for an exemption from section 104(1) of the *Public Health Act 2010* on a case-by-case basis, and that exemptions only be granted where the facility can demonstrate that it can still provide a high level of quality care

## Recommendation 9

That the NSW Government establish a system to monitor, regulate and enforce section 104(1)(a) of the *Public Health Act 2010*

### Response:

The Government supports availability of registered nurses where appropriate for the level of care required by residents. The Government also recognises the wide range of concerns raised in evidence before the Committee. At the same time however, aged care facilities are regulated under a national system, operating under Commonwealth legislation. Retention and expansion of the NSW legislation will duplicate regulatory process without addressing these broader issues.

It is also important to highlight that these recommendations would extend the 24x7 requirement to facilities not previously caught by the requirement.

NSW will therefore pursue concerns about the current regulatory regime through the COAG Health Council.

## Recommendation 10

That the NSW Government, through the Council of Australian Governments, urge the Commonwealth Government to require aged care facilities to make information about their staffing skill sets publicly available, including for it to be published on the 'My Aged Care' website

### Response:

The Committee's rationale for supporting this recommendation went to the need for increased transparency to ensure residents and their families can make better, and more informed decisions about aged care options. This recommendation will be included in the issues to be raised with the COAG Health Council.

## Recommendation 11

That the NSW Government, through the Council of Australian Governments, urge the Commonwealth Government to disseminate clear information about how to lodge complaints. This should include publicising the information in all aged care facilities and ensuring that residents and/or their advocates receive clear information regarding the complaints process prior to entering into a residency.

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## Recommendation 12

That the NSW Government establish a clear process for the lodgement and resolution of complaints about section 104(1)(a) of the *Public Health Act 2010* as part of the new system at recommendation 9, and that information about the complaints process be widely publicised throughout aged care facilities in New South Wales.

### Response:

The Government accepts that the evidence before the Committee indicates there are grounds for more work to be undertaken at both the State and Federal level to ensure residents have better information on the complaints processes available to them.

NSW residents of aged care facilities should have ready access to complaints processes in NSW relating to health care – such as for example, the Health Care Complaints Commission. To this end, NSW will develop information packages on the options available under NSW laws for dissemination through aged care facilities. The information will be most effective if it covers all options available to residents, including processes available through the Commonwealth. NSW will work with relevant Commonwealth agencies to develop the information, and establish processes to ensure its dissemination to residents, carers and advocates.

## Recommendation 13

That the NSW Government report on existing programs and incentives and investigate additional programs and incentives to support registered nurses to train and work in regional, rural and remote areas.

## Recommendation 14

That the NSW Government, through the Council of Australian Governments, seek Commonwealth support to provide funding assistance for the training and engagement of registered nurses, particularly at rural and regional universities, and graduate placement opportunities in rural, regional and remote areas.

## Recommendation 15

That the NSW Government, through the Council of Australian Governments, urge the Commonwealth Government to take active measures to address the wage disparity between registered nurses in aged care facilities and registered nurses in the public health care system.

### Response:

NSW Health has a range of programs and incentives in place to support nurses working and training in regional, rural and remote locations, primarily managed through the local health districts. It is important to note that in 2016 over a quarter of new graduates employed by NSW Health will be working in rural and regional NSW. NSW Health will continue to monitor supply and develop and evaluate programs on a needs basis. The current initiatives are also, necessarily confined to the NSW public health system workforce, while aged care services are primarily provided by the private sector. Recommendation 14 and 15 go directly the Commonwealth's role and functions in respect of aged care. As already indicated it is proposed that the NSW Minister for Health refer the report and these recommendations to the Federal Minister for Health and Aged Care.

## Recommendation 16

That the NSW Government consider rolling out the Telehealth model of care provided by the Hunter-New England Medical Local across New South Wales.

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## Response:

The Government supports rollout of Telehealth models of care in appropriate settings, including in aged care facilities. Reflecting this, a range of initiatives are already underway across the public health system, helping to embed telehealth into clinical practice in a number of settings.

Local health districts are actively engaging with their key external stakeholders and service providers to establish arrangements for patients to access care through telehealth. Partnerships are being cultivated with local GPs, Primary Health Networks (PHNs) and Residential Aged Care Facilities (RACFs) amongst others. For example Murrumbidgee LHD is working closely with Primary Health Networks and NSW Ambulance to develop telehealth enabled inreach and outreach models of care. Outreach to Aged Care Facilities is also a priority, as part of hospital avoidance strategies. Mid North Coast, North Sydney and Northern NSW LHDs are also developing Telehealth models of care with key Aged Care Facilities within their boundaries to reduce avoidable hospital admissions.

## Recommendation 17

That the NSW Government:

- review alternative models of housing for older persons other than aged care facilities, including cooperatives and communal living that provide an on-site caretaker, and
- investigate models in other jurisdictions, including the Netherlands and Scandinavia, that could be trialled in New South Wales.

## Response:

The Commonwealth aged care system already includes Home Care Packages designed to provide services to support older people to continue to live in their own homes, as well as residential aged care services. Both Home Care Packages and residential aged care services are intended to provide services from low care to high care. The Commonwealth also provides the Commonwealth Home Support Program (CHSP) offering a range of low level support services with the intention of supporting older people to live independently in the community for longer. While the need to consider new and alternative models is supported, this should occur through the Commonwealth. Recommendation 17 is therefore noted and will be forwarded the Commonwealth Minister for consideration.