



Health

INQ15/33

Ms Rhia Victorino
Principal Council Officer
General Purpose Standing Committee No. 3
Parliament of New South Wales
Macquarie Street
SYDNEY NSW 2000

Dear Ms Victorino

Please find enclosed the response from NSW Health to the questions taken on notice during Ms Leanne O'Shannessy and Mr Luke Worth's appearance on Wednesday 5 August 2015 before the General Purpose Standing Committee No.3 hearing on the inquiry into the registered nurses in New South Wales nursing homes.

Should you have any queries in relation to this matter please do not hesitate to contact Ms Anne Malcolm, A/Director, Strategic Relations and Communications in the NSW Ministry of Health on

Yours sincerely

~~Karen~~ Crawshaw PSM
Deputy Secretary
Governance, Corporate and Workforce

8.9.15

PARLIAMENT OF NEW SOUTH WALES
General Purpose Standing Committee No.3
Inquiry into the registered nurses in New South Wales nursing
homes
Wednesday, 5 August 2015 Hearing
NSW Health response to Supplementary Questions

1. When is the Public Health Amendment (Nursing Homes) Amendment Regulation 2014 due to expire? –

There is no expiry date in the amending regulation.

2. Has a review of the *Public Health Regulation 2010* commenced or is there a review of the regulation planned? –

The current Regulation is the Public Health Regulation 2012 (not 2010). No review of the overall Public Health Regulation has commenced to date. The Subordinate Legislation Act requires a review within 5 years of a statutory rules initial publication. The Regulation was published on 6 July 2012, and as such a review to determine whether the Regulation will be remade will be required by 2017.

3. Has consideration been given to postponement of the automatic repeal of the *Public Health Regulation 2010*?

The Regulation is the Public Health Regulation 2012. The timing of the review of that Regulation will be guided by the terms of the Subordinate Legislation Act. As noted at question 2 above, a decision on remaking or repeal is not due until 2017.

4. How many nursing homes are currently in operation within New South Wales?

NSW Health does not hold data on privately run aged care facilities. As indicated at the Committee Hearing, data on aged care facilities is held and published by the Commonwealth Department of Social Services (DSS). The DSS website indicates that as at 30 June 2014 939 such facilities were operating in NSW. The DSS has not yet published the number of aged care facilities NSW for 2014-2015. NSW Health operates nine State Government-operated residential aged facilities.

5. How many new nursing homes have commenced operation within New South Wales between 1 July 2014 and 23 June 2015?

See question 4.

6. How many nursing homes were in operation within New South Wales before 1 July 2014?

See question 4.

7. How many aged care facilities with residents who require a high level of residential care, other than nursing homes, are currently in operation within New South Wales?

As per question 4, NSW Health does not hold data on privately run facilities. NSW Health operates 60 MultiPurpose (MPS) services in small rural locations across NSW as at 30 June 2015. These services include a residential aged care component operated under the Commonwealth Aged Care Act 1997.

8. How many new aged care facilities with residents who require a high level of residential care, other than nursing homes, have commenced operation within New South Wales between 1 July 2014 and 23 June 2015?

See question 4 and 7. Two of the multipurpose services referred to in Question 7 were opened between 1 July 2014 and 23 June 2015.

9. How many aged care facilities with residents who require a high level of residential care, other than nursing homes, were in operation within New South Wales before 1 July 2014?

See questions 4 and 7.

10. Many of the submissions the Committee has received have made comparisons between different staffing designations.

These have included:

- (i) Registered Nurses
- (ii) Enrolled Nurses with medication endorsement
- (iii) Enrolled Nurses without medication endorsement
- (iv) Assistants in Nursing and other non-regulated employees

Please note that each of these questions relates to employees within New South Wales for each designation:

- (a) What is the minimum rate of pay for these employees in New South Wales? Are these covered in an industry Award?

Nursing staff of different classifications are employed in both the public and private sectors. Tab 1 sets out public scale rates. Private scale rates are governed by the relevant award.

- (b) What are the minimum education requirements for these employees to be able to practice?

RN	The Nursing and Midwifery Board of Australia (NMBA) governs the minimum education requirements for courses leading to registration as a registered nurse.
EN with med endorsement	The Nursing and Midwifery Board of Australia (NMBA) governs the minimum education requirements for courses leading to registration as an enrolled nurse. All ENs have medication endorsement unless so noted on their registration.
EN without med endorsement	The Nursing and Midwifery Board of Australia (NMBA) governs the minimum education requirements for courses leading to registration as an enrolled nurse. ENs who have not been educationally prepared to administer medication have a notation on their registration.
AIN	Variable (may include up to Certificate III) and is dependent on the requirements of the employing facility.

- (c) What security screening requirements are required for these employees to practice or be employed in New South Wales (Police Records Check, NSW Working With Children Check, etc.)?

For NSW Health a National Criminal Record Check is required for all new appointments. Workers in 'aged care work' must have a new check undertaken every three years. In addition to this at the time of appointment workers in 'child related' work must have a valid Working With Children Check (renewed every five years).

Checks for the private sector are a matter for Commonwealth regulation.

- (d) What sort of courses under the Australian Qualifications Framework (AQF) are the minimum requirement for these employees (Certificate II Course, Diploma, Bachelor Degree)?

RN	The AQF Level 7 (Bachelor Degree) is the minimum level of study to gain registration as an RN in Australia.
EN with med endorsement	The AQF Level 5 (Diploma) is the minimum level of study to gain registration as an EN in Australia.
EN without med endorsement	The AQF Level 5 (Diploma) is the minimum level of study to gain registration as an EN in Australia.
AIN	Variable (may include up to Certificate III) and is dependent on the requirements of the employing facility.

- (e) What is the shortest duration of these courses?

The NMBA governs the minimum education requirements to gain registration as an EN or RN in Australia. Approved programs of study are available on the NMBA website. Course length and hours of study may vary between providers.

- (f) What's the longest duration of these courses?

As per response to 10(e).

- (g) How many hours of study are required?

As per response to 10(e).

- (h) Do these courses include clinical practicum or clinical placements? If so, what's the minimum amount of time for these?

Clinical placements are a requirement in approved programs of study for registration as an EN or RN in Australia. The hours required for successful completion of these programs may vary between providers.

- (i) Is a first aid qualification required? What's the minimum classification required?

It is not clear if this question relates to educational preparation or to employment. NSW Health cannot comment on the employment requirements of private providers.

- (j) Is cardiopulmonary resuscitation (CPR) covered in this first aid qualification?

Education programs noted above, including Certificate III level (Health Services Assistance), include Basic Life Support competency requirements.

- (k) Is the operation of an automatic external defibrillator (AED) covered in this first aid qualification?

NSW Health does not hold this information.

- (l) Is the administration of oxygen and other gases covered in this first aid qualification?

NSW Health does not hold this information.

- (m) Is the administration of intravenous fluids covered in this first aid qualification?

NSW Health does not hold this information.

- (n) Can these employees administer any medications?

(n) - (t) RNs and some ENs can administer medication, subject to the

organisation policies of their employers. ENs who have not been educationally prepared to administer medication have a notation on their professional registration and may not administer medication.

Schedule 2, 4 and 4(Appendix D) medications are administered by RNs and ENs. Schedule 8 medications are administered by RNs, as they are responsible under state poisons legislation for controlling access to Schedule 8 medications and the associated record of storage.

Pain relief medications may be included in Schedules 2, 4, 4(Appendix D) and 8. RNs administer pain relief medication within all these Schedules. ENs administer all except Schedule 8 medications.

Dose administration aids (such as blister packs) may be used in the home setting by patients themselves, or their carers (family or employed) and also in private aged care services, where medications can be given by staff, including AINs and ENs. These blister packs could include pain relief medication.

- (o) What restrictions are placed on them for medication administration?
- (p) Can they administer Schedule 2 medications?
- (q) Can they administer Schedule 4 medications?
- (r) Can they administer Schedule 4 (Appendix D) medications?
- (s) Can they administer Schedule 8 medications?
- (t) What forms of pain relief can these employees administer?
- (u) How many of these employees are currently employed or "registered" within New South Wales?

NSW Health does not hold information on the total number of nurses employed in NSW as many nurses work in the private sector.

According to the Nursing and Midwifery Board website, as of March 2015, 86,018 registered nurses and 13,188 enrolled nurses report their practice location as NSW. AINs are not registered so there is no data available on the number of AINs in NSW.

- (v) How many were trained in New South Wales in 2012?

This information is not held by NSW Health.

- (w) How many were trained in New South Wales in 2013?

This information is not held by NSW Health.

- (x) How many were trained in New South Wales in 2014?

This information is not held by NSW Health.

- (y) How many have been trained in New South Wales this year?

This information is not held by NSW Health.

8. Under regulations in existence prior to the changes brought in by the Aged Care (Living Longer Living Better) Act 2013 (Cth):

(a) – (c) As indicated at the Committee Hearings, NSW Health enforces the stand-alone provision in the Public Health Regulation on a complaints based approach. Where a complaint is made or correspondence received that suggests a possible breach of the provision, the matter is investigated and actioned. Issues of resident safety or adequacy of care or compliance with the general Aged Care Standards remain the responsibility of the Commonwealth.

- (a) How would the Ministry of Health ensure that a nursing home had a minimum of one registered nurse on duty at all times?
- (b) How would the Ministry of Health ensure that a facility appointed a registered nurse as Director of Nursing?
- (c) How would the Ministry of Health ensure that a vacant Director of Nursing position in a nursing home?
- (d) How would the Ministry of Health be advised that a facility's Director of Nursing position was vacant, so that they could enforce the staffing requirement?

There is no requirement in the legislation for a facility to advise when a position becomes vacant.

- (e) Were persons who operated nursing homes able to have a single registered nurse is on duty across multiple wards or sections in the same facility at one time?

Yes.

- (f) Were persons who operated nursing homes able to have a single registered nurse is on duty across multiple facilities of the same owner?

No.

- (g) Could a registered nurse be on duty by phone?

No.

9. With respect to the changes brought in by the Aged Care (Living Longer Living Better) Act 2013 (Cwlth):

For (a) – (c) NSW Health has not undertaken modeling in relation to the cost of employing registered nurses in residential aged care facilities (RACFs).

- (a) What modeling has the Ministry of Health conducted on the cost of keeping at least one registered nurse on staff in nursing homes or aged care facilities with residents who require a high level of residential care at all times - to operators, the Government, and through indirect costs caused by changes in care outcomes? What were the findings?
- (b) What modeling has the Ministry of Health conducted on the cost of keeping at least one registered nurse on staff in nursing homes or aged care facilities with residents who require a high level of residential care at all times? What were the findings?
- (c) What modeling has the Ministry of Health conducted on the level of care and rate of adverse events for facilities staffed with registered nurses? Enrolled nurses? Assistants inuring or other unregulated employees?

Further questions on Notice

CHAIR: I would like to ask a question about a submission that was made by New South Wales Health to the Commonwealth about the proposed amendments to the Commonwealth Aged Care Act. I would just like you to read that submission and ask you for comment. It states:

Under the *Aged Care Act 1997* and the *NSW Public Health Act 2000*, high level care residents currently require care to be provided by a Registered Nurse. NSW Health believes it will be critical to continue these existing regulatory requirements to ensure care quality. The overview paper is silent on this matter. It does not include reference to the role of Registered Nurses, Enrolled Nurses and Assistants in Nursing. It should be a priority that legislation to establish the Quality Agency includes requirements which specify that a registered nurse must be appointed as the Director of Nursing (or similar title) at a residential care facility and a registered nurse must be on duty in a residential aged care facilities. A strong focus on safety and quality of care is critical if the distinction between high and low level residential care is removed.

The current regulatory framework requires that Enrolled Nurses and Assistants in Nursing work under the supervision of a registered nurse. NSW Health believes this should be upheld across all residential care facilities to ensure quality care and protection of the public.

That submission is dated December 2012. Are you able to provide any update, change of view, or whether or not what happened in the process resolved any of those statements?

Ms O'SHANNESSY: Can I seek clarification? I am not familiar with that submission. So this was a submission to the Commonwealth?

CHAIR: Yes.

Ms O'SHANNESSY: I think we would probably like to take it on notice and clarify the source of that submission.

CHAIR: That would be good.

The 2012 Submission was made in the context of consultations with the Commonwealth on their proposed changes to the Aged Care regulatory regime, including the proposal to remove the legislative distinction between high and low care placements. The operation of the NSW Regulation was dependent on that distinction. NSW Health therefore requested it be retained, given the underlying concerns that had led to the regulation being introduced. Since then however, distinction has been removed, rendering the NSW Regulation inoperable. For this reason NSW Health commenced a review, with a transitional regulation put in place to maintain the status quo. The terms of reference of the steering committee required consideration were to look at not only what of any role NSW should take in this area, but also if NSW was to continue to retain a regulatory role, how this could best be achieved.

CHAIR: My interest is whether NSW Health feels it has a responsibility to review any of that information. Is it possible that you might have raw data about the transfer of patients from residential?

Mr WORTH: I am happy to take that on notice.

Data on transfer of patients is collected and categorised for the purposes of clinical care and patient need. It does not therefore, categorise on retaining information on whether the transfer was for an aged care facility, another hospital, hostel, residence or other care setting.

Further supplementary questions

1. Can you please outline the role of a registered nurse in an aged care facility, including their duties and responsibilities?

NSW Health does not govern the aged care sector or the employment requirements, duties, or responsibilities of registered nurses employed in such facilities.

Broadly, registered nurses are required to actively participate as a member of the health care team involving medical and allied health staff to provide the delivery of high standards of care to patients. Further, to promote nursing care that is client focused so that physiological, social and psychological needs are met and to promote nursing care that includes consideration of the patient's family, carers and significant others and their participation in the achievement of desired outcomes.

2. Please define the respective roles of the Commonwealth and State with regards to aged care.

NSW Health does not govern the aged care sector or the employment requirements, duties, or responsibilities of registered nurses employed in such facilities.

The Commonwealth Government through the Aged Care Complaints Scheme (ACCS) and the Australian Aged Care Quality Agency (AACQA) have joint responsibility in regulating and maintaining standards in regards to aged care providers. This is done through monitoring compliance, regular audits, and a complaints resolution mechanism.

For more information please see: <https://www.dss.gov.au/our-responsibilities/ageing-and-aged-care/ensuring-quality/aged-care-quality-and-compliance/role-of-the-aged-care-quality-and-compliance-group>