

**Submission
No 67**

**INQUIRY INTO REGISTERED NURSES IN NEW SOUTH
WALES NURSING HOMES**

Organisation: McLean Care Ltd

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McLean Care

Submission to General Purpose Standing Committee No. 3

NSW Parliamentary Inquiry into

Registered Nurses in

New South Wales Nursing Homes

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Definitions:

Aged Care Funding Instrument (ACFI): (<http://www.resicaremanual.health.gov.au/wp-content/uploads/Residential-Care-Manual-PDF.pdf>, p 71):

- Assessment tool to determine care needs and resident care subsidy payable.
- The level of funding provided depends on the assessed level of care need in three domains.
- 3 domains: Activities of daily living (ADLs), behaviour and complex health care (CHC)
- 63 possible funding combinations.

High Care ACFI (<http://www.resicaremanual.health.gov.au/wp-content/uploads/Residential-Care-Manual-PDF.pdf>, p 74): A resident can be classified as high care ACFI when a resident:

- Scores high in ADL domain, or high in behaviour domain or high CHC domain
or
- Scores medium in at least two of the three domains
Or
- Any combinations of the above

Hostel: Pre 2014

- Low Care facility
- Provide full range of care including all ADLs, behaviour management and nursing care within the organisations resources available at a lower level

Low Care ACFI Post 2014:

- Scores of all other combinations apart from those listed in the high care definition

Nursing Home: Pre 2014:

- High Care Facility
- Provided full range of care including personal care ADLs, behaviour management and nursing care at a higher level of care need than Hostel accommodation

Residential Aged Care Service: (<http://www.resicaremanual.health.gov.au/wp-content/uploads/Residential-Care-Manual-PDF.pdf>, p 5):

- Replaces the older terms of “nursing home” and “hostel”

McLean Care Profile

McLean Care Ltd (McLean Care) is a community-based not-for-profit organisation that has provided aged care services in regional NSW since 1953. Today McLean Care services the New England and North West of NSW - an area covering 100,000+KM² and is a multifaceted aged service provider, providing services to over 800 older people on any given day.

McLean Care suite of services includes a residential aged care facility in Inverell NSW consisting of 160 licensed aged care beds and 33 independent living units. Inverell is a rural town that consists of approximately 12,000 people with Tamworth and Armidale being the closest regional service centres. The residential facility services the Inverell and Gwydir local government areas.

McLean Care also operates a large suit of home care services throughout the New England and North West areas, covering all local government areas within the region and includes:

- 121 Consumer Directed Care packages
- 33,000 Commonwealth Home Support hours across a range of programs that include wellness and restorative care and basic support services for approximately 400 older people
- DVA Community Nursing and Veterans Home Care services
- Service agreement with Hunter New England Local Health District (HNELHD) to provide Temporary Assistance Program services
- A range of brokerage services to McLean Care from, for example insurance companies
- A range of fee for service programs

McLean Care employees over 350 staff throughout the region and 190 of those are employed at the residential facility. McLean Care is the second largest employer in Inverell and makes a significant contribution to the local economy.

Of the 190 employees 9 are Registered Nurses (RNs) who are employed as per below (excluding Managers and educators):

- 6 x FT RNs
- 2 x PPT RNs
- 1 x Casual RN

McLean Care provides 24/7 coverage (32 hours per 24 hours) in the Argyll Centre which provides accommodation for 97 residents with high care clinical needs and significant challenging behaviours. McLean Care provides RN coverage 7 days per week 8 hours per day in the Beresford Coward and Arrawatta Centres. These centres were previously classified as Hostel centres which provided, and continue to provide high and low care services to 63 residents with high ACFI classifications of activity of daily living needs, challenging behaviours and lower clinical care requirements.

A full time Care Manager (RN) is responsible for the supervision of all care provision to all 160 residents and directly reports to the Residential Care Manager who is also a Registered Nurse. Additionally, McLean Care employs a clinical nurse educator for 64 hours per fortnight.

McLean Care is well placed to determine the best staff mix based on resident need and deploys essential clinical resources appropriately to areas of greatest need. This is evidenced by our consistent track record in meeting all 44 outcomes of the Residential Aged Care Standards. The most recent accreditation re-assessment was conducted in June 2015 with full compliance recommended.

Reason for submission

This is a submission to the Inquiry into registered nurses in New South Wales Nursing Homes according to the terms of reference as outlined in the Legislative Council Terms of Reference document. McLean Care wish's to provide comments under point 1, 2, and 3 of the Inquiry Terms of Reference.

Background to the Requirement of RN 24/7

Prior to 2004 Nursing Homes (with the exception of Hostels) were licensed by the NSW State Government and this legislation contained, among other requirements, a requirement that there must be RN on duty 24 hours per day 7 days per week in a Nursing Home. The Nursing Home Act and Regulation predated the Commonwealths Aged Care Act 1997 and the NSW Department of Health undertook a review of this legislation which concluded that the Commonwealth Aged Care Act provided all necessary legislative protection of residents and that the Nursing Homes Act and Regulation provided an unnecessary layer of regulation to residential aged care providers. The legislation was repealed in 2004.

However, the NSW Government remained concerned that the Commonwealth Government legislation was not comprehensive enough to ensure that adequate professional nurse staffing would remain in Nursing Homes. It was then proposed to amend the Public Health Act to include a clause that Nursing Homes must ensure that there is a RN on duty at all times.

With the advent of the Living Longer Living Better Reforms 2012, the distinction between Nursing Homes and Hostels, or high and low Care Facilities was removed in July 2014 and the application of the ACFI is now utilised determine if a resident has high or low care needs for funding purposes.

It needs to be stressed that the ACFI tool assesses 3 domains of care: ADLS, Behaviours and CHC.

A resident may be classified as high care by having significant dependencies in ADLS and behaviours but does not require clinical or complex care interventions.

Summary of the impact or potential unintended Consequences:

1. Reduction in quality of care for residents with care needs specific to the management of ADL and challenging behaviours
2. Reduction in organisational financial viability and sustainability
3. Potential closure of residential aged care beds creating supply and demand issues
4. Increase in the inappropriate hospitalisation of older people
5. Increase in inappropriate utilisation of acute services
6. Significant impact on local economies and infrastructure
7. Non-compliance of residential aged care facilities in meeting the imposed staffing structure due to the inability to attract and retain RNs.

Recommendation:

Remove the requirement from the Public Health Act for RN 24/7 in Nursing Homes

Terms of Reference:

1. *The need for registered nurses in nursing homes and other aged care facilities with residents who require a high level of residential care, in particular:*
 - (a) *the impact of amendments to the Aged Care Act 1997 (Cth) by the Aged Care (Living Longer Living Better) Act 2013 (Cth) on the requirement under s 104 of the Public Health Act 2010 to have a registered nurse on duty at all times in a nursing home, and in particular:*
 - (i) *the impact this has on the safety of people in care*
 - (ii) *the possibility for cost-shifting onto other parts of the public health system as a result of any legislative or regulatory change to the current provisions*

This term of reference is addressed under the following headings:

1. McLean Care Resident and Care Profile
2. Impact of the proposed changes to the legislation

To address this aspect of the terms of reference, an understanding of the McLean Care resident and care provision profiles is required.

1. McLean Care Resident and Care Profile

McLean Care Resident Profile and RN Role Demands in Beresford Coward and Arrawatta Centres

3. 76% of residents in the McLean Care Beresford Coward and Arrawatta Centres (traditionally know as Hostel accommodation) are high care due to ADL and behaviour requirements
4. 15% of residents in these areas require complex care
5. Of this 15%,
 - 0% require RN intervention more than daily
 - 25% require RN intervention on a daily basis for clinical interventions such as complex wound care subcutaneous injections, IMI injections, fitting of support garments, clinical administrative tasks, management of acutely unwell residents
 - 75% of residents require RN intervention less than a daily basis.
6. 9% of residents require minimal or no intervention from either RN's or care workers

As Mclean Care provides RN staffing 24/7 in the Argyll centre which consists of 97 residents, all classified as high care ACFI, McLean Care is able to provide RN advise and assessment where required outside of the 0830-1700 hours where an RN is employed in the Beresford Coward and Arrawatta Centres.

Out of hours RN Role demands profiles:

1. On average the RN from the Argyll Centre is required to attend to these areas on night duty or evening shift **5 times per month**. Attendance is primarily for assessment of residents following a fall or a clinical event that requires clinical intervention

2. On average the RN from the Argyll Centre is required to provide phone support for care workers on night duty and evening shifts **4-8 times per shift**. This phone support relates primarily to:
 - Behaviour management
 - Medication clarification
 - Reassurance

McLean Care has invested in video technology to allow RNs in the Argyll Centre to review residents via video conferencing in the Beresford Coward and Arrawatta Centres.

When a resident is admitted to Beresford Coward or Arrawatta Centres, a formal legal agreement is prepared which includes a clause that states that when a residents care needs can no longer be met in these areas, or indeed by the whole facility, alternative accommodation will be found that is agreeable to all parties involved that meets the care needs of the resident. Additional staff are employed to meet resident care needs until either an internal transfer or and external transfer is accomplished.

McLean Care RN costs profile:

McLean Care experiences shortages of RNs from time to time and to ensure that adequate RN coverage is achieved under the current arrangements, the contracting of agency RN is a frequent occurrence. This is not an unusual phenomenon for all aged care providers in the New England and North West. Additionally, HNELHD also experience a critical shortage on an ongoing basis. In 2012 26.7% of NSW facilities utilised agency staff compared with 19.1% in 2003 (2012 National Aged Care Workforce Census, p70, DoHA).

In the financial year ending 2014, the cost of agency nurses for McLean Care was \$424,348 and the cost of employed RNs was \$595,771. Utilising an activity based costing model where the three streams of income and expense are care, hotel services and accommodation, this equates to:

1. A total of \$1,020,119 spend on RNs in the care stream per annum
2. 14% of care income going to RN wages in the care stream
3. 72% of care income going to care worker wages in the care stream
4. 14% of care income going to other care related wages such as Leisure and lifestyle and allied health in the care stream

2. Impact of the proposed changes to the legislation

If the requirement to have RN 24/7 is removed from the Public Health Act, McLean Care will continue to ensure that there are RNs on duty in the Argyll Centre 24/7, and McLean Care will continue to ensure that a RN is on duty 7 days per week for 8 hours per day in the Beresford Coward and Arrawatta Centres. Consequently, there will be no impact on the safety of residents.

If the requirement is not removed and further extended to encompass all areas such as those where there is a mix of high and low care residents, significant impact on residents care and significant impact on organisations and associated communities will ensue, as outlined below.

In 2012, 33% of residential aged care facilities reported RN vacancies (2012 National Aged Care Workforce Census, p64, DoHA), and 30% of RN vacancies took, on average 6.9 weeks to fill in NSW.

In regional and rural areas vacancies took on average 8 weeks and in rural and remote areas of NSW 15 weeks (2012 National Aged Care Workforce Census, p65-66, DoHA).

McLean Care assumptions made if legislation remains and the definition is extended to cover any area where there are high care residents are as follows:

1. McLean Care would need to staff the Beresford Coward and Arrawatta Centres with a RN 24/7.
2. An additional 3 FTE RNs, 1 PT RN, 1 x casual leave relief would need to be recruited
3. Given the current shortage of RNs this would mean the recruitment of agency RNs until local recruitment was possible. RN recruitment has been and continues to be problematic in the New England and North West area.
4. This would equate to an additional cost of (not including recruitment costs) of \$935,401 per annum
5. The total cost of RNs for McLean Care would escalate to \$1,955,520 (52% increase in RN Costs on previous financial years)
6. As McLean Care income stream via the ACFI will not change with this additional RN requirement, 30% of care income will need to be redirected to RN wages. Consequently, a detailed income and expenditure analysis would then need to occur

The impact can be described in three ways:

Impact 1:

If McLean Care was required to employ additional RNs 24/7, a full organisational business/financial review would need to be undertaken. This would involve a full review of, for example, staff wages, role delegations to ensure that McLean Care had the capability to manage the impact of the financial burden that additional RNs would impose.

1. This will necessitate a reduction in care worker or lifestyle/allied health stream to balance income and wage costs
2. As previously outlined there is no current or past need for RN 24/7 in the Beresford Coward and Arrawatta Centres and as such additional duties will need to be performed by the RNs throughout their shifts that are not related to clinical interventions in order for them to be gainfully employed
3. RNs role will need to change to a role that includes RN undertaking, for example, personal care, toileting and behaviour management – the traditional domains of the care worker. A significant training and development program would need to be implemented as these activities are not the skill set of clinicians and to avert a potential negative impact on residents with dementia and challenging behaviours
4. This will require careful negotiation with the Health Service Union (HSU) and the NSW Nurses and Midwives Association (NSWNMA) and RNs
5. Alternatively or perhaps in addition, McLean Care will need to review the hotel service stream to make the required savings to pay for the additional RN costs. This will impact on food services, cleaning services and maintenance services

6. Training and development for RNs to provide hotel services such as catering, cleaning and laundry as well as administrative services that are the traditional domains of hotel support workers will be required
7. This will also require careful negotiation with the HSU and the NSWNMA
8. Potential financial impact on McLean Care and its future viability and sustainability.
9. Significant impact on the local economy and infrastructure with loss of employment and loss of services
10. Significant impact on the health and well- being of the older population in general as well as the health and well- being of the residents within the McLean Care residential facility

Impact 2:

McLean Care will be unable to financially sustain RN 24/7 in Beresford Coward and Arrawatta Centres. This will mean:

1. Closure of the Beresford Coward and Arrawatta areas and relocate 63 residents to other facilities around the region or to hospital environments
2. The creation of a chasm between supply and demand for residential aged care with local hospitals having to provide additional aged care services where supply cannot meet the demand
3. Potential financial impact on McLean Care and its future viability and sustainability.
4. Significant impact on the local economy and infrastructure with loss of employment and loss of services
5. Significant impact on the health and well- being of the older population in general and the health and well- being of the residents within the McLean Care residential facility that require transfer
6. Significant financial impact on hospital and health services (cost shift)

Impact 3:

Breach of provider responsibility as McLean Care will be unable to recruit the required number of RNs to staff Beresford Coward and Arrawatta Centres 24/7 either locally or via Agency. This will mean:

1. Failure to meet the requirement of additional RN 24/7 will mean a breach of provider responsibility, resulting in Mclean Care being unable to continue to operate until such time as the organisation resumed compliance: i.e. recruitment for the additional RN positions
2. Residents would need to be relocated to other aged care providers if possible or admitted to local and regional hospitals until the required number of RNs are recruited
3. This would have significant financial impact on McLean Care and its future viability and sustainability
4. Significant impact on the local economy and infrastructure with loss of employment and loss of services
5. Significant impact on the health and well- being of the older population in general and the health and well- being of the residents within the McLean Care residential facility that require transfer
6. Significant impact on hospital and health services

Terms of Reference:

1. *The need for registered nurses in nursing homes and other aged care facilities with residents who require a high level of residential care, in particular:*

(b) the requirement for a registered nurse to be on duty in a nursing home at all times, as compared with requirements in aged care hospital wards

The Standards associated with maintaining accreditation and to ensure a residential aged care provider is eligible to continue to receive Commonwealth care subsidies are set out in clearly in in the Australian Government Australian Aged Care Quality Agency Accreditation Standards. NSW is the only Australian state that has the additional requirement and accreditation non-compliance data suggests that there is no difference in resident outcomes in states where this requirement does not exist.

The care and service provided in residential aged care facilities are distinctly different to the care and services provided in acute care hospitals and in many multipurpose services (MPS's). This is also reflected in the distinctly different funding models of acute services and acute hospital structures. Therefore comparison of the requirements for RNs in residential aged care compared with requirements in aged care hospital wards is inappropriate.

Terms of Reference:

1. *The need for registered nurses in nursing homes and other aged care facilities with residents who require a high level of residential care, in particular:*

(c) the administration, procurement, storage and recording of administration of medication by non-registered nurses in nursing homes and other aged care facilities with residents who require a high level of residential care, as compared with hospital clinical settings

The extension of the requirement for RNs to administer medication in all residential aged care settings will necessitate an additional increase in the RN workforce in addition to that as described in Terms of Reference 1 (a), (i) and (ii). Qualified and skilled aged care workers administer medications to residents in low care facilities that care for a mix of high and low care residents, previously known as hostels.

Additionally, Enrolled Nurses Division 2 Medication Endorsed (ENs) administer medications in high care environments previously known as Nursing Homes, up to and including Schedule 4 (S4) medication. RNs are required to administer schedule 8 (S8) medications according to the Poisons and Therapeutic Goods Regulations in high care (nursing home). Removal of this task from care workers in low care environments and transferring the obligation to ENs and RNs will require an additional EN and RN recruitment.

The role of the care worker will be almost eroded in its entirety. The complete review of the current Commonwealth subsidy arrangement will be required with a significant increase in subsidy amounts to ensure that providers are able to cover the cost of additional clinical resources.

If this did not occur, the financial viability and sustainability of aged care providers will be eroded, facilities will close and hospitals will become the new residential aged care providers.

It is also important to note that there is a current shortage of RNs in NSW which will necessitate the utilisation of agency staffing which is also not an infinite resource.

Terms of Reference:

1. *The need for registered nurses in nursing homes and other aged care facilities with residents who require a high level of residential care, in particular:*

(d) the role of registered nurses in responding to critical incidents and preventing unnecessary hospital admissions

RNs in residential aged care facilities are well qualified in responding to critical incidents in residential aged care facilities and the preference for residential care providers and clinicians is to minimise resident anxiety and confusion by preventing unnecessary hospital admissions. However, there are instances where hospitalisation is necessary. It would be unlikely that increasing the RN component in residential aged care facilities will reduce hospital admissions.

On the contrary, if all residential services were required to have RN 24/7, there would be a disproportionate increase in the rate of unnecessary hospital admissions due to residential care closures and RN 24/7 non-compliance.

Terms of Reference:

2. *The need for further regulation and minimum standards for assistants in nursing and other employees or carers with similar classifications*

McLean Care would welcome regulation and minimum standards for assistants in nursing and other employees or carers with similar classifications so long as:

1. The process was a national approach involving extensive aged care peak body and industry consultation that includes a range of not for profit providers in a range or regional, rural and remote locations
2. There were no financial impositions on residential aged care providers
3. If there were financial impositions, then Commonwealth subsidies would be increased accordingly to directly match the imposition

Terms of Reference:

3. The adequacy of nurse to patient ratios in nursing homes and other aged care facilities with residents who require a high level of residential care

Residential aged care facilities operate on a funding model that aligns resident care needs with subsidies provided by the Commonwealth Government. There are checks and balances in place and administered by the Commonwealth Government to ensure that:

1. Providers claim appropriately for subsidies
2. Residents received the appropriate care and services

Mandating nurse patient ratios will not alter the outcomes for residents as is demonstrated in other states. The overwhelming majority of facilities in other states have excellent track records in ensuring residents are provided with appropriate care and services. Mandating nurse patient ratios will only prove problematical for residential aged care providers as outlined in Terms of Reference 1: (a): (i) and (ii).