

**INQUIRY INTO PROVISIONS OF THE PUBLIC HEALTH  
AMENDMENT (REGISTERED NURSES IN NURSING  
HOMES) BILL 2020**

**Organisation:** Aged and Community Services Australia (ACSA)  
**Date Received:** 8 February 2021

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The Hon Courtney Houssos MLC  
Chair

Select Committee Inquiry into the provisions of the Public Health Amendment (Registered Nurses in Nursing Homes) Bill 2020  
Parliament House  
6 Macquarie Street  
Sydney NSW 2000

*RegisteredNurses@parliament.nsw.gov.au*

5 February 2021

Dear Ms Houssos

***Inquiry into the provisions of the Public Health Amendment (Registered Nurses in Nursing Homes) Bill 2020 (New South Wales)***

Thank you for the opportunity to provide comments to the New South Wales Parliament Select Committee on the provisions of the *Public Health Amendment (Registered Nurses in Nursing Homes) Bill 2020*.

This submission focusses on Terms of Reference points (a) and (e).

***Terms of Reference (a) – 24/7 Registered Nurse (RN) care***

The proposed Bill will amend the definition of ‘nursing home’ in the NSW *Public Health Act 2010* to directly reference the definition of a facility at which residential aged care is provided under the Commonwealth *Aged Care Act 1997*. The intent is to ensure the requirement for a registered nurse to be on duty at all times is extended to a larger number of facilities covered by the new definition.

Aged & Community Services Australia (ACSA) is of the view that this change, if introduced without any capacity to support flexibility, will have significant impact on rural, regional, and remote aged care providers, and smaller aged care providers in metropolitan areas.

The Royal Commission into Aged Care Quality (the Royal Commission) and Safety is likely to make recommendations in relation to staffing matters in its upcoming Final Report which is due late February 2021.

Separately, governance and regulation of Commonwealth funded aged care services is the responsibility of the Commonwealth Government, including staffing requirements.

ACSA is supportive of 24 hour Registered Nurse coverage when and where Registered Nurses are needed in services whose residents require significant clinical assessment and ongoing clinical management. The Aged Care Quality Standards, including Standard 3 for Personal and Clinical Care, require aged care providers to demonstrate the delivery of safe quality outcomes for residents. Fundamentally, Aged Care Quality Commission data demonstrates providers who do not engage Registered Nurses for 24 hours a day are consistently achieving the required quality outcomes.

Additionally, we support the approach to staffing and staffing levels as described in the Royal Commission's first research paper that compares Australian and international staffing benchmarks.<sup>i</sup> What is required is transparency, and a nationally consistent approach to staffing and service models and reporting against resident acuity (to allow for comparability).

For these reasons, we recommend not progressing with the proposed Bill and that staffing requirements in residential aged care continue to be prescribed by the Australian Government, particularly as they respond to the release of the Final Report of the Royal Commission into Aged Care Quality and Safety.

The proposed Bill would potentially deny some providers the flexibility required to appropriately respond to the changing mix of care needs within their service. At times, it may be that more Registered Nurse hours are needed, and at other times care funding might be more productively spent on additional allied health services or care staff numbers to support residents. What is required is the flexibility to have the right staffing model, including differing skill mixes, to meet the needs of residents.

### *Unintended consequences*

As far back as 2011, the Productivity Commission report *Caring for Older Australians* found ratios that specified levels of Registered Nurse care to be a "fairly 'blunt' instrument for ensuring quality care because of the heterogeneous and ever-changing care needs of aged care recipients". It also found that they were not likely to be an efficient way to improve the quality of care and could also eliminate provider incentives to develop innovative models and adopt technology.<sup>ii</sup>

Enabling older people to age in their communities is the basic tenet of Aged Care Legislation that has long been supported by both sides of politics. The proposed Bill runs counter to this. The unintended consequences for residents and their communities are extensive and include the possible closure of facilities in regional, rural, and remote areas due to the difficulties of finding or funding sufficient qualified staff.

The adverse related impacts of closure include:

- Removing the choice of older Australians to 'age in community';
- Social dislocation of older Australians and their families if forced to move to another facility away from their community;
- Increased travel times for spouses, families and loved ones; and
- Economic impact on local communities, particularly employment, if facilities were to close. Residential aged care facilities are often one of the largest employers in their communities and spend in local businesses. Closure will mean less money in the community, accelerating economic decline. Small regional, rural and remote communities are battling the economic impacts of COVID-19, drought and bushfire recovery. There would be little chance of recovery for these communities if a major employer ceased to operate.

#### *Workforce availability*

ACSA's ongoing consultation with aged care providers consistently identifies workforce as one of the most significant challenges they face. Our members advise us that there is very real potential that they would not be able to meet a 24 hour Registered Nurse requirement should the Bill be enacted, primarily due to the limited availability of Registered Nurses in their communities and/or the cost impact of 24 hour Registered Nurse coverage, noting that at September 2020 over fifty per cent of homes recorded an operating loss, this rising to sixty five per cent for outer regional, rural and remote homes with direct care costs rising at a rate higher than care funding indexation.<sup>1</sup> If there is no flexibility afforded, they may not be able to continue operating. Even if the funding issue was resolved, the availability issue would still be problematic.

A number of organisations (including ACSA) and reports/studies<sup>iii</sup> have identified key workforce issues facing rural, regional and remote providers including:

- A high level of workforce 'churn', cost premium of contracting agency staff;
- Difficulty in employing overseas staff due to visa requirements, and now exacerbated by the current pandemic environment;
- Challenges in recruiting and retaining qualified staff;
- It is reported that registered nurses may be reluctant to work in remote locations if they had the responsibility of being the sole registered nurse for the facility;

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<sup>1</sup> Aged Care Financial Performance Survey Aged Care Sector Report, Three months ended 30 September 2020, StewartBrown, January 2021

- Extended times to fill vacancies; and
- In some cases, the need to pay higher wages or offer additional support such as accommodation, relocation and travel expenses.

Providers in regional, rural and remote communities continue to report substantial difficulties in recruiting Registered Nurses. Consistent with the issues above, one member has had to hire a Registered Nurse who was located two and a half hours away and pay for travel and accommodation in order to cover a maternity leave position. Others simply cannot recruit Registered Nurses and instead have other arrangements to meet needs such as visiting roster of Registered Nurses with regional health services.

Small and regional, rural and remote providers need the flexibility to assess and provide Registered Nurse level care as appropriate to their situation and needs of their residents.

#### *Costs of proposal*

The funding of 24 hour Registered Nurse care will be difficult, if not unmanageable, for smaller providers and those in regional, rural and remote communities.

Small metropolitan providers like Christophorus House Retirement Village continue to report to us that they would experience the same challenges now in funding 24 hour Registered Nurse coverage that they reported in the 2015 NSW Inquiry<sup>iv</sup> describing an annual \$300,000+ cost impost. Other members describe a significantly higher cost burden on their service would result should this Bill be passed. This potential additional cost burden needs to be balanced against Government care funding at a maximum of \$223 per resident per day (under the Aged Care Funding Instrument) where it is recognised that indexation is not meeting growth in wage costs with providers experiencing ongoing deteriorating financial positions.<sup>v</sup> Even if Government begins to address funding to residential aged care as part of its response to the Royal Commission's Final Report which is due on the 26 February the availability of Registered Nurses will remain an issue.

#### *Terms of Reference (e) – Medications*

Regional, rural and remote providers have medication administration policies and procedures in place to enable safe administration of dose administration aid packed medications by non-clinically qualified staff. These arrangements are not governed by the *NSW Public Health Act 2010* and the *NSW Poisons and Therapeutic Goods Regulations 2008*.

The delivery of these medications is by credentialed care workers who have completed medication administration module training and who are competency assessed annually. The medications delivered by care workers in these residential aged care settings are not generally Schedule 8 medications or medications that are delivered on a PRN 'as need basis'. Many services have suitable and safe policies and procedures in place, including on-call arrangements for the administration of PRN medicines, and clinical assessment support and therefore do not require 24-hour coverage. As mentioned earlier in this document, all aged care providers are required to meet the Aged Care Quality Standards<sup>vi</sup>, including those that align with clinical care.

### ACSA Recommendations

1. That the NSW Parliament does not progress the proposed Bill.
2. That staffing requirements in residential aged care continues to be the responsibility of the Australian Government as system governor.
3. Appropriately credentialed care staff continue to be able to administer medications where there are appropriate policies and procedures in place, including the use of dose administration aides.

Yours sincerely

**Patricia Sparrow**

CEO

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<sup>i</sup> Research Paper 1: How Australian residential aged care staffing levels compare with international and national benchmarks, The Royal Commission into Aged Care Quality and Safety, 11 October 2019

<sup>ii</sup> Australian Government Productivity Commission, *Caring for Older Australians Inquiry Report*, Volume 2, 2011, p.206

<sup>iii</sup> The Aged Care Financing Authority, *Financial Issues Affecting Rural and Remote Aged Care Providers Part 1*, Aged Care Financing Authority, 2016, p57; Senate Enquiry on the future of Australia's Aged Care Workforce *Submission*, Aged & Community Services Australia, March 2016; *Addressing Aged Care Workforce issues in Rural and remote Australia*, Australian Association of Gerontology, July 2019

<sup>iv</sup> NSW Parliament Legislative Council General Standing Committee No. 3, *Registered nurses in NSW nursing homes*, 29 October 2015, p.34

<sup>v</sup> Aged Care Financial Performance Survey, Aged Care Sector Report, Three months ended 30 September 2020, StewartBrown

<sup>vi</sup> Aged Care quality Standards, [see here](#)