



Australian Government
Department of Health

Queensland Legislative Assembly	
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Dr John Wakefield PSM
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Sent by email: public_reporting@health.qld.gov.au

Dear Dr Wakefield

Feedback on the draft Health Transparency Bill 2009 (Bill) and Health Transparency Regulation 2019 (Regulation)

I refer to your correspondence dated 30 July 2019, addressed to Ms Kerri-Anne Reeves – Acting Director of Aged Care Regulation Queensland and myself, in which you seek feedback from the Department of Health (the Department) on the draft Health Transparency Bill 2009 (Bill) and Health Transparency Regulation 2019 (Regulation). The Department welcomes the opportunity to provide comment for your consideration.

The Department understands that the intent of the above-named legislation is to create a standalone legislative framework to collect and publish:

- general information and quality and safety information from public and private health facilities in Queensland; and
- general information from public and private residential aged care facilities in Queensland.

The Health Transparency Bill and Regulation 2019 – Consultation Paper notes that this information will be used to improve the transparency of the quality and safety of health services provided in Queensland, in order to allow consumers and representatives to make well-informed decisions about their healthcare.

The Department's submission focuses on the proposed legislation in relation to the aged care sector. We have made no comment with regards to the proposed collection of data for public and private health facilities, as defined by Schedule 1 of the draft Health Transparency Bill 2019.

This submission sets out information about the:

1. existing regulatory framework in relation to residential aged care and the provision of appropriate care and services, including existing complaints mechanisms and monitoring and compliance functions;
2. position on staffing ratios;
3. current and future scope of aged care reforms; and
4. implementation considerations with regards to measures outlined in the proposed Bill and Regulation.

1. Existing regulatory framework

The *Aged Care Act 1997* (the Act) enacts a quality framework to support the provision of quality aged care services. This includes quality standards through the *Quality of Care Principles 2014*, monitoring, complaints management and compliance powers. Residential aged care providers have responsibilities under the Act, including the requirement to maintain an adequate number of appropriately skilled staff to ensure the care needs of care recipients are met (section 54-1(1)(b)).

The Principles include a set of standards governing the provision of both personal and clinical care in the residential aged care setting, including the requirement that consumers and representatives are engaged in the development, delivery and evaluation of care and services, and are supported in that engagement.

Schedule 1, Part 3 of the Principles set out occasions where registered nursing staff are required, including the initial assessment and care planning stage, ongoing management and evaluation and the delivery of complex health care procedures. Schedule 2, Standard 7 of the Principles outlines the requirements for approved providers in relation to human resources and requires that organisations have a workforce that is sufficient, and is skilled and qualified to provide safe, respectful and quality care and services.

The new Aged Care Quality Standards (the Standards) which commenced on 1 July 2019, provides more information on the requirements under Standard 7 (Human Resources) in relation to the sufficiency of the workforce and the attributes, attitude and performance of the workforce.

The Aged Care Quality and Safety Commission's (the Commission) role is to protect and enhance the safety, well-being and quality of life of people receiving aged care, and do this through education, complaints resolution and regulatory functions. Regulatory functions provide independent accreditation and monitoring of Australian Government funded aged care services. A robust framework exists to detect any failures with the Standards, including unannounced re-accreditation audits and regular assessment contact visits. The Commission began assessing and monitoring quality of care and services against the Standards on 1 July 2019. The Commission has internal mechanisms to support approved providers to remedy identified non-compliance and referral pathways to other agencies, including the Department where additional regulatory action may be taken.

Information about aged care providers and compliance action, including current and expired sanctions, is available at www.myagedcare.gov.au. These existing pathways have been designed and implemented to strengthen aged care regulation, helping to ensure safe, quality care is consistently maintained at all residential aged care services.

While existing legislation does not require the publishing of staff information, including ratios between nursing staff and support workers, there are mechanisms available to approved providers to make this information public, should they choose to. This can be found on the My Aged Care website as part of the aged care homes Find a Provider tool and this is in addition to any information already published on the service's own website. Further, the My Aged Care website encourages consumers and representatives to ask approved providers questions which may include details of current staffing arrangements.

In addition to the legislative requirements pertaining to accreditation and ongoing compliance of residential aged care services, the Commission also provides an avenue for people to raise concerns about the quality of care or services delivered to those who receive Australian Government funded residential aged care services.

2. Position on staffing ratios

The relationship between staffing in aged care homes and the quality of the care provided is complex. There is considerable diversity in staffing arrangements across accredited homes. There is no single optimum staffing mix as there may be many sets of arrangements for the provision of quality aged care that apply in response to care recipients' particular circumstances.

The debate regarding fixed staff ratios was considered by the Productivity Commission in 2011¹ who observed that improved information and communication technology would have an impact on both quality and productivity in the aged care sector. Additionally, enhanced information and communication technology had implications for the skills and training of staff, and the ability of aged care managers to successfully lead change. The report noted that while there are superficial attractions to mandatory staffing ratios, the care needs of aged care recipients is ever-changing and providers of aged care should be able to adjust staffing profiles to meet the demands of care recipients. Additionally, by imposing mandated staffing ratios it could eliminate incentives for providers to invest in innovative models of care, or adopt new technologies that could assist care recipients.

On 13 September 2018, the then Minister for Senior Australians and Aged Care, the Hon Ken Wyatt, AM, MP, released the Aged Care Workforce Strategy (the Strategy), developed by an industry-led Taskforce (2017-18). While not supporting mandatory staff ratios in aged care, the Strategy recommends changes to workforce planning and oversight to ensure that care is delivered in accordance with individual care plans. The Strategy also recommends "organisations publish the model of care and hours of care across elements of the holistic care plan to better support their consumers and inform the family, carers and the local community".

¹ 2011; Caring for Older Australians; Productivity Commission.

An industry-led Aged Care Workforce Industry Council was established in May 2019 to lead the implementation of the Strategy. The Council has prioritised development of common workforce standards. The Australian Government continues to support this industry-led initiative.

International studies examining the impact of nurse to patient ratios on patient outcomes are inconclusive.

3. Current and future scope of aged care reforms

From 1 July 2019, the National Aged Care Mandatory Quality Indicator Program is mandatory for all Commonwealth subsidised residential aged care services. As well as providing aged care providers with data against which to measure and monitor performance and support continuous improvement, it will also give consumers transparent and comparable information about quality in aged care to inform their decision-making.

Also from 1 July 2019, a single Charter of Aged Care Rights (the Charter) came into effect. The Charter, which applies to all consumers, regardless of the type of subsidised care and services they receive, is designed to make it easier for care recipients; their families and carers to understand what they can expect from an aged care service provider and supports them in their choice and decision-making. Aged care providers are required to support their clients in understanding the Charter.

On 16 September 2018, the Prime Minister announced the Government's decision to establish a Royal Commission into Aged Care Quality and Safety (the Royal Commission), which came into effect on 8 October 2018. An interim report is due by 31 October 2019 and the final report by 30 April 2020.

The Department anticipates that, as a result of the Royal Commission, there will be a number of recommendations in relation to the structure and performance of the existing aged care sector, including workforce and staffing mix. The Australian Government will consider any recommendations that are included in the Royal Commission's final report.

4. Implementation considerations with regards to measures outlined in the proposed Bill and Regulation

The Department acknowledges that the initial phase of the Health Transparency Bill and Regulation 2019 seeks to require public and private aged care facilities to report their average daily resident care hours on a quarterly basis. The Bill also provides scope to prescribe the reporting of further residential care information by regulation, and may include the nurse and staff skill mix.

It would need to be considered whether this level of detail would be useful to consumers and, if so, what additional information and context would need to be provided to assist in their understanding and decision-making. The publication of average daily resident care hours as a stand-alone figure may be misleading unless considered against other factors including the breakdown of care recipient assessed care needs across the continuum of care.

Additionally, the proposed legislation and supporting consultation paper does not address whether the submission of data from public and private aged care services would undergo a review to verify the data. Further, should information come to hand that suggests the data was inaccurate, referral mechanisms do not appear to be in place to notify regulatory bodies to ensure there is no adverse impact of continuity of care to aged care recipients.

This Bill appears to create a reporting burden on providers, with no clear benefits to consumers, and no relationship to regulatory functions.

In seeking to provide greater transparency around staff ratios, it is important any measurements selected and the way they are communicated are chosen carefully. The information would need to be both easy to understand and support people to consider staffing data alongside a range of other relevant information.

The Department believes that consumers and representatives consider several factors when choosing a residential aged care service including, but not limited to:

- geographic distance to family members who can provide emotional and social support;
- the approved provider's model of care;
- compliance history of the aged care service;
- culturally appropriate or religious based facilities; and
- financial costs associated with entrance fees, such as refundable accommodation deposits.

Since the introduction of My Aged Care and the supporting website on 1 July 2013, the Department had publically promoted this information portal to consumers and representatives as the preferred and primary source of information and support regarding government funded aged care in Australia. From July 2020, differentiated performance ratings of residential aged care services will be published on the My Aged Care website, together with a tool to compare providers. However, it is recognised that navigating the intricacies of aged care can be daunting and overwhelming for members of the public, given the vast and complex amount of information available.

In this regard, the Aged Care System Navigator Measure was announced in the 2018-19 Budget and involves four programs of trials that are testing different system navigator models to support people and build their capacity to understand and engage with the aged care system. The trials are spread across different locations and population groups, and include a particular focus on people who face barriers to accessing aged care services and people who are vulnerable. The Measure is being evaluated to inform future decision making.

The Department acknowledges there is currently increased public scrutiny of the aged care sector, including a focus on the number of nursing and support staff available at aged care facilities.

By introducing a second source of information, publishing data that has not been verified for accuracy and has the potential to confuse or mislead consumers and their

representatives, when staffing representation is but one consideration when choosing a residential aged care facility does not appear to be of benefit.

I trust this information has been of assistance. We would be happy to provide clarification on any content in our submission.

Yours sincerely



Nicole Jarvis
State Manager - Queensland and the Northern Territory

9 August 2019