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AMA submission to the Senate Community Affairs Legislation Committee inquiry into the Age Care Quality and Safety Commission Bill 2018 and related Bill

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Background

The AMA supports the establishment of an Aged Care Quality and Safety Commission (the Commission). The AMA has called for an Aged Care Commission in submissions to multiple reviews and inquiries into aged care, including:

- *The Review of National Aged Care Quality Regulatory Processes*
- *Future reform – an integrated care at home program to support older Australians*
- *Senate Community Affairs References Committee on the Effectiveness of the Aged Care Quality Assessment and accreditation framework for protecting residents from abuse and poor practices, and ensuring proper clinical and medical care standards are maintained and practised*
- *House of Representatives Standing Committee on Health, Aged Care and Sport – inquiry into the quality of care in residential aged care facilities in Australia*
- *Aged Care Workforce Strategy Taskforce – the aged care workforce strategy*

The above submissions outline that an Aged Care Commission should be established with roles that are in addition to its regulatory functions. For the aged care system to evolve we must consider that, like the broader health system, aged care impacts upon state, territory, and Federal Government. However, there is a lack of coordination and information-sharing between the different jurisdictions[1]. Aged care is the purview of the Commonwealth but when a health complication arises, residents are often transferred to a hospital, which is the responsibility of the State or Territory Government. This means that the States and Territories often bear a financial cost resulting from issues that arise in a Commonwealth-run aged care environment.

The incidences at Oakden Older Mental Health Service[2] is a typical example of how this lack of coordination and information-sharing can result in the inexcusable continuous neglect of older people:

[1] Carnell, K and Paterson, R (2017) *Review of National Aged Care Quality Regulatory Processes*, p77
[2] Groves A, Thomson D, McKellar D and Procter N. (2017) *The Oakden Report.* Adelaide, South Australia: SA Health, Department for Health and Ageing.

Serious complaints about medication mismanagement and unexplained bruising on a resident at Oakden were raised with the Principal Community Visitor in June 2016 and then with Northern Adelaide Local Health Network (NALHN). This led the CEO of NALHN to request South Australia's Chief Psychiatrist to undertake an extensive review of clinical care within the Oakden facility in December 2016 and appoint a senior nurse manager on 9 January 2017 to oversee delivery of clinical care. ***Inexplicably, the Commonwealth aged care quality regulators were not advised of these issues and instead found out about them through a media report on 18 January 2017.***[3]

Issues were raised in AMA's submissions that the Aged Care Complaints Commissioner and the Australian Aged Care Quality Agency (AACQA) do not take advantage of the information they receive, because of their sometimes-overlapping functions to identify issues with the system. The Complaints Commissioner communicated less than 15 per cent of received complaints to AACQA between July 2016 and June 2017[4].

There is currently no overarching regulatory body for the whole aged care sector. This can be confusing for aged care providers and consumers and creates inefficiencies and a lack of communication between the existing regulatory bodies. Therefore, AMA supports the introduction of an Aged Care Quality and Safety Commission. The aged care sector (both government and non-government funded) needs an overarching body that provides a clear, well-communicated, governance hierarchy implemented so aged care service providers are aware of their responsibilities, and who is responsible for regulation and quality improvement. The Commission should consider, in addition to its regulatory functions, methods to improve the older person's journey between the various levels of the health and aged care systems. This includes more efficient and effective communication and information-sharing processes between everyone involved in the older person's care.

The Aged Care Quality and Safety Commission Bill 2018

Functions of the Commission

Clause 5 states there will be additional future functions of the Commissioner included into the Bill, including approval of aged care providers and some compliance functions. As stated in AMA's *Resourcing aged care* position statement, government should consider the following functions of the Commission in future Bills:

- *Oversee the aged care regulatory bodies and make recommendations to the Government on how to improve the aged care system based on their work.*
- *Work with the aged care industry to ensure an adequate supply of appropriate, well-trained staff to meet the demand for holistic care from a diverse ageing population.*
- *Centralise information sharing between all aged care regulatory bodies, hospitals, State, Territory and Federal governments, Primary Health Networks, advocacy services, and aged*

[3] Carnell, K and Paterson, R (2017) *Review of National Aged Care Quality Regulatory Processes*, p85
[4] Carnell, K and Paterson, R (2017) *Review of National Aged Care Quality Regulatory Processes*, p85

care services to identify where the system is not operating efficiently, or where the current model is failing to address health issues, which can lead to higher costs.

- *Regularly assess the resources allocated for the health of older people by State, Territory and Federal governments, in consultation with older people and their representatives, as well as with health care professionals, carers, and other providers of aged care.*
- *Make recommendations to the Federal Government and the aged care sector to ensure the level of investment in the sector enables an appropriate level and quality of services and infrastructure to meet the needs of an ageing population. This includes:*
  - *funding needed to meet the demand and appropriate mix of aged care services, including RACFs* [residential aged care facilities] *and home care packages, and*
  - *upgrading facilities to the standard the community expects, while also complying with the standards required for the provision of contemporary medical care.*
- *Includes a medical practitioner in an advisory role to improve clinical care and clinical governance in aged care, such as through education and training.*
- *There should be an independent body (for example, an Aged Care Ombudsman) for relevant parties to report and appropriately address concerns regarding aged care.*

<u>A Chief Clinical Advisor</u>

The Explanatory Memorandum states:

> "The Bill establishes that the Commissioner may seek and consider clinical advice that is relevant to the performance of its functions. To support this, it is envisaged that a clinical advisor will be engaged by the Commissioner to support the work of the Commission and this role would be supported by an expert clinical panel." [5]

There must be a focus on clinical care under the Commission, and this should be reflected in the appropriate document, preferably one that is subject to public or parliamentary feedback and scrutiny. The AMA understands that this level of detail is not in the proposed legislation, to not unnecessarily limit the role, and to allow the Commission to not be tied down to a single individual. That is, as the AMA understands it, the Commissioner may decide that more than one clinical advisor is needed, that additional short-term advisors are required, and that the same applies to a clinical panel/committee - more than one may be needed. For example, if a doctor specialising in palliative care, or dementia, is required. The AMA would obviously support an approach that will not limit the clinical issues being looking into at a deeper level.

Many of the cases of abuse and neglect in aged care settings involve inadequate clinical care. The '2.4 clinical care' Accreditation Standard was the second highest outcome not met by RACFs in 2016-17, followed by '2.7 – medication management'[6]. This shows that aged care staff find it difficult to understand, or are unable to carry out, what is expected of them in terms of clinical care. This must be improved to ensure older people receive high quality care.

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[5] The Parliament of the Commonwealth of Australia House of Representatives (2018) *Aged Care Quality and Safety Commission Bill 2018: Explanatory Memorandum*. Page 1
[6] Australian Aged Care Quality Agency (2017) *Annual Report 2016-2017,* p13

The following should be included in the appropriate document as a minimum:

- The Commissioner must appoint a Chief Clinical Advisor and an expert clinical panel;
- A Chief Clinical Advisor must be a registered medical practitioner (either a general practitioner or a geriatrician) with expertise in aged care;
- The Commission must consult with the AMA when appointing a Chief Clinical Advisor and expert clinical panel; and
- Specifics on the role of a Chief Clinical Advisor and the expert clinical panel.

The role of a Chief Clinical Advisor and the expert clinical panel should include providing advice (on their own initiative, or when requested by the Commissioner) to the Commission on:

- Complex regulatory issues involving clinical care (such as when an aged care provider does not meet Standards involving clinical care);
- Improving clinical care and clinical governance in aged care settings;
- Improving the collaboration between the different levels of the health and aged care systems;
- Education and training to improve the capability of aged care workers (see below); and
- Any other advice relating to the clinical care of older people.

It should be a requirement that a Chief Clinical Advisor is a medical practitioner. This is because an older person’s medical practitioner is their primary clinical carer. Medical practitioners are highly experienced in, and qualified for, dealing with the complex clinical conditions that older people face. A Chief Clinical Advisor should be either a general practitioner or a geriatrician experienced in aged care.

Consulting with the AMA for nominations would be beneficial to the Commissioner. The AMA has a range of suitably qualified and experienced members who would excel as a Chief Clinical Advisor or as a member of the Aged Care Quality and Safety Advisory Council or expert clinical panel.

Education functions of a Chief Clinical Advisor

It has been reported to the AMA that many aged care staff do not have the appropriate training to properly handle the major issues facing the elderly, such as behavioural conditions, dementia, falls prevention, pressure sore prevention, and pain management. We have been informed that this can lead to poor quality care such as an increase in medication mis-use.

Clause 20 of the Bill outlines the education functions of the Commission. As stated above, a Chief Clinical Advisor should also have an educational role. Details outlining the education role should be specified once the Commission has been established and should be made publicly available in the form of Commission guidelines or rules. This would include education around quality and clinical governance for aged care providers, ensuring that they are aware of their responsibilities regarding clinical care and ensuring there is training available on the following topics:

- Strategies for addressing common health issues that older people face.
- Strategies to ensure effective collaboration between aged care providers and external providers of care, including the health professional workforce (i.e. medical practitioners, nurses, and allied health professionals).

- Strategies to prevent deterioration in health, such as exercise programs, oral hygiene, diversional therapy, and providing adequate nutritious meals and hydration.
- Strategies to enhance quality of life of dementia patients, including through reducing delirium and distress.
- Recognition, intervention and management of elder abuse.
- Engaging with Culturally and Linguistically Diverse (CALD) and Aboriginal and Torres Strait Islander (ATSI) older people and their families.
- Palliative care skills, including recognising and respecting advanced care plans.
- Mental health skills.

Following the work of the Aged Care Industry Reference Committee[7] (who is currently reviewing aged care workforce education and training), the Commission should consider mandating a minimum qualification for people to work in aged care. This would ensure the aged care workforce has the capability to provide the services that are expected of them.

Clause 17: Consumer engagement functions of the Commissioner

The Explanatory Memorandum for Clause 17 states:

> "…the Commissioner will advance ways and means to enhance and protect the safety, health, well-being and quality of life of aged care consumers. This will be achieved by developing and promoting best practice models that are made in consultation with consumer and industry leaders of aged care…"[8]

In addition to consulting "consumer and industry leaders of aged care", it is imperative that qualified health professionals, including medical practitioners, are consulted. Medical practitioner-led teams provide medical care for older people in a diverse range of settings, including the patient's home, in the community, in a hospital, at the medical practitioner's practice, or in a RACF. They are extensively qualified and experienced in ensuring the safety, health, well-being and quality of life of their patients. Medical practitioners have a responsibility to advocate for their patients' care needs, including to ensure they receive appropriate care.

Aged Care Quality and Safety Commission (Consequential Amendments and Transitional Provisions) Bill 2018

No comment.

[7] https://www.aisc.net.au/irc/aged-care-industry-reference-committee
[8] The Parliament of the Commonwealth of Australia House of Representatives (2018) *Aged Care Quality and Safety Commission Bill 2018: Explanatory Memorandum*. Page 8

Conclusion

The AMA supports the introduction of an Aged Care Quality and Safety Commission. Future functions of the Commission should include improving collaboration between all levels of the health and aged care systems and determine the levels of investment in the aged care industry required to ensure safe, high quality, care for older people.

The functions of a Chief Clinical Advisor and the expert clinical panel must be included in the appropriate document, preferably one that is subject to public and parliamentary scrutiny, but one that allows greater consideration of clinical issues going forward, rather than limiting it. It should include education around quality and clinical governance for aged care providers and advise on clinical regulatory issues. A Chief Clinical Advisor must be a registered medical practitioner (either a general practitioner or geriatrician) with expertise in aged care.

28 SEPTEMBER 2018

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